



Français

Nutrient Management Act, 2002

ONTARIO REGULATION 267/03

GENERAL

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**PART I
DEFINITIONS AND INTERPRETATION**

DEFINITIONS AND GENERAL

Definitions and general

1. (1) In this Regulation,

“adverse effect” means an adverse effect described in subsection 18 (3) of the Act; (“conséquence préjudiciable”)

“agricultural source materials” or “ASM” means any of the following treated or untreated materials, other than compost that meets the requirements for Category AA, A or B compost in Part II of the Compost Standards or a commercial fertilizer, if they are capable of being applied to land as nutrients:

1. Manure, including associated bedding materials, whether or not located on an agricultural operation.
2. Runoff from farm animal yards, outdoor confinement areas and permanent nutrient storage facilities that contain only manure and associated bedding materials, whether or not located on an agricultural operation.
3. Washwaters from agricultural operations that have not been mixed with human body waste.
4. Organic materials produced by intermediate operations that process materials described in paragraph 1, 2 or 3.
5. Anaerobic digestion output, other than restricted anaerobic digestion output, if
 - i. the anaerobic digestion materials were treated in a mixed anaerobic digestion facility,
 - ii. at least 50 per cent, by volume, of the total amount of anaerobic digestion materials were on-farm anaerobic digestion materials, and
 - iii. the anaerobic digestion materials did not contain sewage biosolids or human body waste.
6. Regulated compost as defined in subsection 1 (1) of Ontario Regulation 106/09 (Disposal of Dead Farm Animals) made under the Act; (“matières de source agricole”, “MSA”)

“Agronomy Guide for Field Crops” means the Agronomy Guide for Field Crops, Publication 811, published by the Ministry of Agriculture, Food and Rural Affairs in 2009; (“guide agronomique des grandes cultures”)

“anaerobic digestion” means the decomposition of organic matter by bacteria in an oxygen-limiting environment; (“digestion anaérobie”)

- “anaerobic digestion materials” means materials that are intended for treatment in a mixed anaerobic digestion facility, whether the materials are generated at the agricultural operation or received at the agricultural operation from an outside source; (“matières destinées à la digestion anaérobie”)
- “anaerobic digestion materials reception system” means any system or building used to receive off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables, for treatment in a regulated mixed anaerobic digestion facility; (“système de réception de matières destinées à la digestion anaérobie”)
- “anaerobic digestion materials transfer system” means a system used to move any off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables, from one component to another of a regulated mixed anaerobic digestion facility, but does not include a vehicle used to transport the materials; (“système de transfert de matières destinées à la digestion anaérobie”)
- “anaerobic digestion output” means any solid or liquid material that results from the treatment of anaerobic digestion materials in a mixed anaerobic digestion facility; (“matières issues de la digestion anaérobie”)
- “anaerobic digestion vessel” means a vessel that is a component of a regulated mixed anaerobic digestion facility where the treatment of anaerobic digestion materials through time and temperature occurs, but does not include any vessel used exclusively to heat materials before treatment pursuant to subsection 98.9 (2); (“cuve de digestion anaérobie”)
- “application”, in relation to the application of a material to land, does not include the direct deposit onto land of feces or urine by animals; (“épandage”)
- “approved design capacity”, in relation to a sewage treatment works, means design capacity as approved for the sewage treatment works pursuant to an environmental compliance approval issued in respect of an activity mentioned in subsection 53 (1) of the *Ontario Water Resources Act*; (“capacité nominale approuvée”)
- “aquifer” means an underground formation of saturated permeable rock or saturated loose material including soil that can produce useable quantities of water when tapped by a well; (“aquifère”)
- “biogas upgrading system” means the biogas upgrader and any associated gas treatment equipment; (“système de valorisation de biogas”)
- “broker” means a person who,
- (a) receives prescribed materials from an operation,
 - (b) does not generate a new nutrient product from the 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; (“courtier”)
- “broking operation” means an operation by virtue of which a person is a broker; (“entreprise de courtage”)
- “Building Code” means Ontario Regulation 332/12 (“Building Code”) made under the *Building Code Act, 1992*; (“code du bâtiment”)
- “Category 1 non-agricultural source materials” or “Category 1 NASM” means non-agricultural source materials described in Table 1 of Schedule 4; (“matières de source non agricole de catégorie 1”, “MSNA de catégorie 1”)
- “Category 2 non-agricultural source materials” or “Category 2 NASM” means non-agricultural source materials described in Table 2 of Schedule 4; (“matières de source non agricole de catégorie 2”, “MSNA de catégorie 2”)
- “Category 3 non-agricultural source materials” or “Category 3 NASM” means non-agricultural source materials described in Table 3 of Schedule 4; (“matières de source non agricole de catégorie 3”, “MSNA de catégorie 3”)
- “CM1”, when used in reference to NASM, means that its content of a regulated metal does not exceed the concentration set out in Column 2 or 3 of Table 1 of Schedule 5; (“TM1”)
- “CM2”, when used in reference to NASM, means that its content of a regulated metal exceeds that of CM1 NASM but does not exceed the concentration set out in Column 2 or 3 of Table 2 of Schedule 5; (“TM2”)
- “commercial, community or institutional use” means any commercial, community or institutional use, including without limitation the use of land for,
- (a) an office building,

- (b) a hotel, motel, hostel or similar type of accommodation,
- (c) an overnight camp or overnight campgrounds,
- (d) indoor recreational or sporting activities,
- (e) indoor gatherings for civic, religious or social purposes,
- (f) indoor performing arts activities,
- (g) a railway station, airport passenger terminal or other embarkation or debarkation point for travellers,
- (h) a day care centre,
- (i) educational purposes, including a school, college, university, private career college or associated residence,
- (j) a health care facility, or
- (k) a penitentiary, jail or other place of custody or detention; (“utilisation commerciale, communautaire ou institutionnelle”)

“commercial fertilizer” means a fertilizer or supplement, as each of those terms is defined in the *Fertilizers Act* (Canada), that is regulated under that Act, subject to subsection (2.1); (“engrais commercial”)

“compacted soil liner”, in relation to a permanent nutrient storage facility, means a liner composed of hydraulically secure soil that is compacted to 95 per cent of modified Proctor density at the optimum moisture content to meet a maximum saturated hydraulic conductivity of not more than 1×10^{-9} metres per second; (“revêtement de sol compacté”)

“Compost Standards” means the document published by the Ministry of the Environment entitled “Ontario Compost Quality Standards”, as amended from time to time, originally dated July 25, 2012 and available through the Ministry’s website on the Internet and through the Ministry’s Public Information Centre; (“Normes de qualité du compost”)

“concrete” means Portland cement concrete; (“béton”)

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

- (a) an excess of prescribed materials or nutrients, if 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, if 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; (“plan d’urgence”)

“control”, as a verb in relation to land, an agricultural operation or a non-agricultural operation, includes manage and operate; (“avoir le contrôle”)

“CP1”, when used in reference to NASM, means that its content of a pathogen named in Column 1 of Table 1 or Table 2 of Schedule 6 does not exceed the level set out in Column 2 or 3 of Table 1 or Column 2 or 3 of Table 2; (“TP1”)

“CP2”, when used in reference to NASM, means that,

- (a) its content of *E. coli* exceeds that of CP1 NASM but does not exceed the level set out in Column 2 or 3 of Table 3 of Schedule 6, or
- (b) its content of a pathogen other than *E. coli* named in Column 1 of Table 1 or Table 2 of Schedule 6 exceeds that of CP1 NASM, but its content of *E. coli* does not exceed that of CP2 NASM; (“TP2”)

“crop residue” means the unharvested portion of a crop left on the surface of the soil of land after the harvest of a crop grown on the land; (“résidus de culture”)

“Drainage Guide” means the Drainage Guide for Ontario, Publication 29, published by the Ministry of Agriculture, Food and Rural Affairs in 2007; (“Guide de drainage”)

“dugout pond” means a pond,

- (a) that is constructed entirely within a farm unit,
- (b) that is not connected to surface water,
- (c) that is located more than 100 metres from the nearest surface water or well, and
- (d) to which access by livestock is entirely restricted or is limited so that livestock are only allowed to drink from the pond;
("mare-réservoir")

"dwelling" means a structure that is used as a residence, including a mobile home or a seasonal home, but not including a structure that is in a residential area; ("logement")

"earth" means inorganic components of the earth's crust such as clay, silt, sand, gravel or any mixture of those components and may contain small amounts of organic materials; ("terre")

"engineered material" means synthetic material or natural material that has been reworked to create material that meets,

- (a) the standard set out in the definition of "hydraulically secure soil", in the case of that soil,
- (b) the requirements specified in Part VIII, in the case of other material located immediately under a permanent nutrient storage facility; ("matière travaillée")

"environmental compliance approval" means an environmental compliance approval within the meaning of the *Environmental Protection Act*; ("autorisation environnementale")

"farm feed" means any materials that are listed in paragraph 3 and subparagraphs 7 iv, v, viii and ix of Schedule 1; ("produits servant d'aliments pour animaux")

"farm unit" means land consisting of, or designated as, a farm unit under section 5; ("unité agricole")

"feedstock system" means any of the following for receiving and handling off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables, prior to the materials going into the anaerobic digestion vessel, whether used independently or in conjunction with each other to form a larger feedstock system:

1. An anaerobic digestion materials reception system.
2. A facility for the storage of the materials.
3. A pre-treatment system.
4. An anaerobic digestion materials transfer system; ("système de matières premières")

"flow path", in relation to a facility, site, outdoor confinement area, temporary storage area or vegetated filter strip system, means a surface channel or depression that conducts liquids away from the facility, site, area or system; ("voie d'écoulement")

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

"geomembrane liner" means a synthetic membrane with very low permeability used to control fluid migration in a nutrient storage facility; ("géomembrane")

"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 a nutrient storage facility; ("revêtement d'argile géosynthétique")

"ground level", in relation to a nutrient storage facility, means the lowest surface grade within a perimeter of two metres of the facility; ("niveau du sol")

"high-density permanent outdoor confinement area" means an outdoor confinement area,

- (a) to which the animals confined in the area have access for 4,800 hours of the year and where the number of animals confined in the area, at any time, is sufficient to generate nutrients at a rate of more than 120 nutrient units per hectare annually, or
- (b) an area that meets the following requirements:
 - (i) the animals confined in the area have access to the area for less than 4,800 hours of the year,
 - (ii) the area is an outdoor confinement area that contains a sufficient number of farm animals to generate 300 or more nutrient units annually,

(iii) the number of nutrient units generated by the animals confined in the area in the year multiplied by the proportion of the year during which the animals are confined in the area is more than five nutrient units per hectare; (“zone de confinement extérieure permanente à haute densité”)

“hydraulically secure soil” means natural soil that is consistent in nature and able to meet a maximum saturated hydraulic conductivity of 1×10^{-8} metres per second; (“sol sûr en termes de conductivité hydraulique”)

“hydrologic soil group” means a hydrologic soil group determined in accordance with the Drainage Guide; (“groupe hydrologique de sols”)

“incorporation” means the mixing of nutrients into the surface of soil by tillage with a minimum depth of soil disturbance of 10 centimetres; (“incorporation”)

“injection”, in relation to the application of nutrients to land, means the placement of nutrients below the surface of the soil of the land; (“injection”)

“intermediate generator” means a person who owns or controls an intermediate operation; (“producteur intermédiaire”)

“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 or volume but does not include an operation that mixes only manure produced by farm animals or that mixes anaerobic digestion materials in a regulated mixed anaerobic digestion facility; (“exploitation intermédiaire”)

“liner” includes a geomembrane liner, a geosynthetic clay liner and a compacted soil liner; (“revêtement”)

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

“liquid nutrient transfer system” means all pipes and surfaces that come into contact with liquid prescribed materials during the movement of those materials to a permanent nutrient storage facility but does not include the components of a permanent liquid nutrient storage facility or a vehicle that is used to transport liquid nutrients; (“système de transfert d’éléments nutritifs liquides”)

“livestock” includes poultry and ratites; (“bétail”)

“living crop” means a crop that has been planted and has emerged from the soil, and if it is dormant, that must be reasonably expected to resume growing under suitable conditions; (“culture vivante”)

“low-density permanent outdoor confinement area” means an outdoor confinement area used for 4,800 hours or more in a calendar year where the number of animals confined in the area, at any time, is not sufficient to generate nutrients at a rate of more than 120 nutrient units per hectare annually; (“zone de confinement extérieure permanente à faible densité”)

“manure”, unless otherwise specified, means manure produced by farm animals; (“fumier”)

“maximum sustained slope” means the change in elevation from the top to the bottom of a slope divided by the length of the slope expressed as a percentage, where the slope has a minimum length of 10 metres and where the slope is towards surface water; (“pente soutenue maximale”)

“mixed anaerobic digestion” means anaerobic digestion of both on-farm anaerobic digestion materials and off-farm anaerobic digestion materials in the same facility; (“digestion anaérobie mixte”)

“mixed anaerobic digestion facility” means an anaerobic digestion facility that treats both on-farm anaerobic digestion materials and off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out; (“digesteur anaérobie mixte”)

“municipal well” means a well that serves as a raw water supply for a municipal drinking water system as defined in the *Safe Drinking Water Act, 2002*; (“puits municipal”)

“NASM application area” means the part or parts of the land of a farm unit to which NASM is applied; (“zone d’épandage de MSNA”)

“NASM Odour Guide” means,

- (a) the document of that name prepared by the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment for the purposes of this Regulation and dated July 25, 2012, and
- (b) Table 3 (NASM Odour Category Table) of the Nutrient Management Tables; (“Guide des odeurs MSNA”)

“NASM plan” means a nutrient management plan for the management of NASM and other nutrients that may be applied to NASM application areas or stored in NASM storage facilities; (“plan MSNA”)

“NASM plan area” means a NASM application area together with any associated NASM storage facility on the same farm unit; (“zone assujettie à un plan MSNA”)

“NASM storage facility” means a permanent nutrient storage facility or temporary field nutrient storage site,

- (a) that is used to store NASM, and
- (b) that is not subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*. (“installation d’entreposage de MSNA”)

“non-agricultural operation” means,

- (a) an intermediate or broking operation, or
- (b) any other operation, other than an agricultural operation, that involves the generation or management of prescribed materials or nutrients; (“exploitation non agricole”)

“non-agricultural source materials” or “NASM” means any of the following materials, other than compost that meets the requirements for Category AA or A compost in Part II of the Compost Standards or a commercial fertilizer, if the materials are intended to be applied to land as nutrients:

1. Pulp and paper biosolids.
2. Sewage biosolids.
3. Anaerobic digestion output, if less than 50 per cent, by volume, of the total amount of anaerobic digestion materials that were treated in the mixed anaerobic digestion facility were on-farm anaerobic digestion materials.
- 3.1 Restricted anaerobic digestion output.
4. Any other material,
 - i. that is not from an agricultural source and that is capable of being applied to land as a nutrient, and
 - ii. that is not an agricultural source material; (“matières de source non agricole”, “MSNA”)

“non-farm herbivorous animal” means a mammal that is not a farm animal or a primate, and whose primary diet, in its natural state, is obtained by grazing or browsing on herbivorous materials such as grass, leaves, woody shoots, grains or seeds; (“herbivore non agricole”)

“Nutrient Management Protocol” means,

- (a) the document of that name prepared by the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment for the purposes of this Regulation and dated November 10, 2021, and
- (b) Table 1 (Nutrient Unit Livestock Information Table) and Table 2 (Manure Databank) of the Nutrient Management Tables; (“Protocole de gestion des éléments nutritifs”)

“Nutrient Management Tables” means the document of that name, as amended from time to time, prepared by the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment for the purposes of the NASM Odour Guide and the Nutrient Management Protocol; (“tableaux de gestion des éléments nutritifs”)

“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; (“unité nutritive”)

“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; (“poste d’observation et d’arrêt”)

“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; (“poste d’observation”)

“OC1”, when used in reference to NASM, means that it has an odour detection threshold of less than 500 odour units per cubic metre as determined in accordance with the NASM Odour Guide; (“CO1”)

“OC2”, when used in reference to NASM, means that it has an odour detection threshold of 500 or more but less than 1500 odour units per cubic metre as determined in accordance with the NASM Odour Guide; (“CO2”)

“OC3”, when used in reference to NASM, means that it has an odour detection threshold of 1500 or more but less than 4500 odour units per cubic metre as determined in accordance with the NASM Odour Guide; (“CO3”)

“off-farm anaerobic digestion materials” means anaerobic digestion materials that are not generated at an agricultural operation and that are received at an agricultural operation from an outside source; (“matières ne provenant pas d’une exploitation agricole”)

“on-farm anaerobic digestion materials” means anaerobic digestion materials that are generated at an agricultural operation; (“matières provenant d’une exploitation agricole”)

“operation” means an agricultural operation or a non-agricultural operation; (“exploitation”)

“operation identifier” means a unique identifier that a Director assigns, for the purposes of a nutrient management strategy or plan, to an operation or a farm unit on which an agricultural operation is carried out; (“identificateur d’exploitation”)

“organic soils” means soils containing more than 17 per cent organic carbon by weight, commonly known as peat, muck, bog or fen soils; (“sols organiques”)

“outdoor confinement area” means an enclosure for livestock, deer, elk or game animals that has the following characteristics:

1. It has no roof, except as described in paragraph 3.
2. It is composed of fences, pens, corrals or similar structures.
3. It may contain a shelter to protect the animals from the wind or another shelter with a roof of an area of less than 20 square metres.
4. It has permanent or portable feeding or watering equipment.
5. The animals are fed or watered at the enclosure.
6. The animals may or may not have access to other buildings or structures for shelter, feeding or watering.
7. Grazing and foraging provides less than 50 per cent of dry matter intake; (“zone de confinement extérieure”)

“permanent liquid NASM storage facility” means a NASM storage facility that is a permanent liquid nutrient storage facility; (“installation permanente d’entreposage de MSNA liquides”)

“permanent liquid nutrient storage facility” means a permanent nutrient storage facility that is designed and constructed to contain liquid prescribed material; (“installation permanente d’entreposage d’éléments nutritifs liquides”)

“permanent NASM storage facility” means a NASM storage facility that is a permanent nutrient storage facility; (“installation permanente d’entreposage de MSNA”)

“permanent nutrient storage facility” means a facility for storing prescribed material, including a 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,
- (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,
- (c) nutrient application or irrigation systems used to deliver liquid fertilizer to crops,
- (d) a permanent nutrient storage facility used solely as part of a vegetated filter strip system, or
- (e) a regulated mixed anaerobic digestion facility; (“installation permanente d’entreposage d’éléments nutritifs”)

“permanent outdoor confinement area” means an outdoor confinement area that is either a high-density permanent outdoor confinement area or a low-density permanent outdoor confinement area; (“zone de confinement extérieure permanente”)

“permanent solid NASM storage facility” means a NASM storage facility that is a permanent solid nutrient storage facility; (“installation permanente d’entreposage de MSNA solides”)

“permanent solid nutrient storage facility” means a permanent nutrient storage facility that is designed and constructed to contain solid prescribed material; (“installation permanente d’entreposage d’éléments nutritifs solides”)

“prescribed material” means an agricultural source material or a non-agricultural source material; (“matière prescrite”)

“pretilled” means land that is sufficiently disturbed by tillage to disrupt large cracks and pores that could conduct liquid materials into subsurface soil or tile drains; (“préalablement labouré”)

“pre-treatment system” means a system used for separation, cleaning, chopping, mixing, thermal treatment and other size reduction and temperature treatments of off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables; (“système de prétraitement”)

“professional engineer” means a person who holds a licence or a temporary licence under the *Professional Engineers Act*, but does not include a person who holds a limited licence issued under that Act; (“ingénieur”)

“professional geoscientist” means a person who is a member in good standing of the Association of Professional Geoscientists of Ontario or who holds a valid certificate of authorization under the *Professional Geoscientists Act, 2000*, but does not include a limited member or a non-practising member of that Association; (“géoscientifique professionnel”)

“pulp and paper biosolids” means solid or liquid material that results from the treatment of wastewater generated by a manufacturer of pulp, paper, recycled paper or paper products including corrugated cardboard; (“biosolides de papetières”)

“regulated metal” means arsenic, cadmium, cobalt, chromium, copper, lead, mercury, molybdenum, nickel, selenium or zinc; (“métal réglementé”)

“regulated mixed anaerobic digestion facility” means a mixed anaerobic digestion facility that is regulated under Part IX.1 that,

- (a) is not subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*,
- (b) is not subject to a renewable energy approval issued under the *Environmental Protection Act* in respect of an anaerobic digestion facility,
- (c) is operated for the purpose of managing materials containing nutrients in order to produce methane, and
- (d) is composed of an anaerobic digestion vessel and any of the following components:
 - (i) any area of land used for the unloading of anaerobic digestion materials for introduction into a feedstock system,
 - (ii) any gas combustion system for biogas generated by the facility where the system satisfies the conditions in subsection (1.1),
 - (iii) any biogas upgrading system for biogas generated by the facility where the system satisfies the conditions in subsection (1.1),
 - (iv) any solid and liquid separator used for separating anaerobic digestion output,
 - (v) any gas storage,
 - (vi) any system for heating anaerobic digestion materials or anaerobic digestion output,
 - (vii) any gas pressure relief device,
 - (viii) any secondary gas burning facility,
 - (ix) any feedstock system,
 - (x) any odour control system for managing odour emissions from the facility, and
 - (xi) any other component that the professional engineer includes in their design specification for the facility in order to meet the requirements of this Regulation; (“digesteur anaérobie mixte réglementé”)

“residential area” means an area in which there are four or more lots of not more than one hectare,

- (a) that are adjacent to each other or not separated by anything other than a road allowance or right of way, and
- (b) on each of which there is a residential building; (“zone résidentielle”)

“restricted anaerobic digestion output” means material described in subsection (1.2); (“matières issues de la digestion anaérobie limitée”)

“Sampling and Analysis Protocol” means the document of that name prepared by the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment, Conservation and Parks for the purposes of this Regulation and dated July 1, 2021; (“Protocole d’échantillonnage et d’analyse”)

“sewage biosolids” means the residue from a sewage treatment works following treatment of sewage and removal of effluent; (“biosolides d’égouts”)

“site characterization” means a site characterization carried out in accordance with a study under Part VIII; (“caractérisation de site”)

“soil test hole” means a hole that is dug or drilled into soil for the purpose of determining the characteristics of the soil in accordance with this Regulation; (“trou d’essai du sol”)

“solid”, in relation to prescribed materials or nutrients, means having a dry matter content of 18 per cent or more or a slump of 150 millimetres or less using the Test Method for the Determination of Liquid Waste (slump test) set out in Schedule 9 to Regulation 347 made under the *Environmental Protection Act*; (“solide”)

“source separated organics” means organic waste that has been separated from other waste under a program operated by or for a municipality; (“matières organiques séparées à la source”)

“surface water” means surface water as defined in section 2; (“eau de surface”)

“synthetic liner” means a geomembrane liner or a geosynthetic clay liner; (“revêtement synthétique”)

“temporary field nutrient storage site” means a location that is not a permanent nutrient storage facility and where solid prescribed materials are stored for more than 24 hours; (“site temporaire d’entreposage d’éléments nutritifs sur place”)

“tillage” means the mechanical disturbance of soil so as to be turned, mixed or displaced from its undisturbed state; (“labourage”)

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

- (a) the edge of the channel or bank, if there is a sharp change from the steep slope of the channel or bank to the shallower slope of the field area, or
- (b) the normal full extent of the watercourse when it contains the maximum volume of water without flooding, if the change in slope described in clause (a) does not exist; (“haut”)

“transfer date”, when used in reference to NASM, means,

- (a) the date of land application, if the NASM is generated in an intermediate operation on the same farm unit where it is applied, or
- (b) the date on which the NASM is removed from the place where it is generated, in all other cases; (“date de transfert”)

“treatment system” means a treatment system that is capable of changing the characteristics of an input stream that contains nutrients; (“système de traitement”)

“unsaturated” means a soil water content that is less than 100 per cent of the total pore space, or that is at a negative soil water pressure as determined according to the Nutrient Management Protocol for unsaturated soil conditions; (“non saturé”)

“untreated septage” means one or more of the following materials that has not been treated to reduce pathogens:

1. Human body waste.
2. Toilet or other bathroom waste.
3. Material described in paragraph 1 or 2 that is mixed with other materials for a reason other than treatment; (“boues non traitées”)

“vegetated buffer zone” means an area that,

- (a) has a width of at least three metres, adjacent to the top of the bank of surface water, measured away 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 can be harvested as hay or silage; (“zone tampon de végétation”)

“vegetated filter strip” means a densely vegetated strip of land engineered and constructed to intercept and treat runoff by settling, filtration, dilution, adsorption of pollutants and infiltration into the soil; (“bande de végétation filtrante”)

“vegetated filter strip system” means a complete system that is engineered for treating runoff and includes all of the following:

1. A component that collects and stores the runoff and allows solids in the runoff to settle.
2. A component that screens the runoff to remove coarse material.
3. A component that transfers the runoff to the vegetated filter strip, which may include a pump if necessary.
4. A distribution pipe, or an equivalent mechanism, that distributes runoff uniformly across the vegetated filter strip.
5. A vegetated filter strip; (“système de bande de végétation filtrante”)

“water table”, in relation to land, means the highest level of water found in the ground, as recorded in the water well records for the nearest water wells to the land or as determined by a test hole dug at the time of or before the placing of materials containing nutrients at a temporary field nutrient storage site located on the land; (“nappe phréatique”)

“well” includes a gas well, oil well, unused well, test well and water well. (“puits”) O. Reg. 267/03, s. 1 (1); O. Reg. 447/03, s. 1 (1-23); O. Reg. 169/04, s. 1; O. Reg. 511/05, s. 1; O. Reg. 394/07, s. 1; O. Reg. 338/09, s. 1; O. Reg. 266/11, s. 1; O. Reg. 284/12, s. 1 (1-14), s. 7; O. Reg. 284/13, s. 1; O. Reg. 204/19, s. 1 (1-4); O. Reg. 508/21, s. 1 (1-6); O. Reg. 848/21, s. 1.

(1.1) The processing of biogas in a biogas upgrading system or the combustion of biogas in a gas combustion system is prescribed as an agricultural activity conducted on agricultural land for the purpose of the definition of “agricultural operation” in section 2 of the Act where the following conditions are met:

1. The biogas upgrading system or gas combustion system is located on agricultural land and is part of a regulated mixed anaerobic digestion facility.
2. The biogas upgrading system or gas combustion system is located on the same land acquired under a single transfer as defined in the *Land Registration Reform Act* as the other components of the regulated mixed anaerobic digestion facility of which it is a part, or on an adjacent piece of land acquired under a single transfer as defined in the *Land Registration Reform Act*, as long as the upgrading system or combustion system is located within one kilometre of every anaerobic digestion vessel which generates the biogas that is fed into the upgrading system or combustion system.
3. Every regulated mixed anaerobic digestion facility which provides biogas for processing in the biogas upgrading system or for combustion in a gas combustion system must be owned or controlled by the same person.
4. The biogas upgrading system and the gas combustion system must be used for biogas generated exclusively by a facility described in paragraph 3. O. Reg. 508/21, s. 1 (7).

(1.2) For the purposes of the definition of “restricted anaerobic digestion output” in subsection (1), restricted anaerobic digestion output material is anaerobic digestion output resulting from the treatment of materials on an agricultural operation that treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility on a farm unit that receives, in the preceding 12-month period, more than 10,000 cubic metres of off-farm anaerobic digestion materials or any materials listed in Schedule 2B, where the output resulted from the treatment of any of the following:

1. Off-farm anaerobic digestion materials received in contravention of paragraph 1, 1.1, 1.3, 1.4 or 1.6 of subsection 98.4 (1) or section 98.5 (1).
2. Anaerobic digestion materials that contain sewage biosolids or human body waste.
3. Anaerobic digestion materials that do not meet the requirements of paragraph 3 of subsection 98.8 (1), subsection 98.8 (2), paragraphs 2 to 6 of subsection 98.9 (1) or subsection 98.9 (2), (2.1), (2.2), (3) or (4). O. Reg. 508/21, s. 1 (7).

(2) In the Act,

“generator” means generator as defined in subsection (1); (“producteur”)

“pulp and paper sludge” means pulp and paper biosolids as defined in subsection (1). (“boues de pulpe et de papier”) O. Reg. 267/03, s. 1 (2); O. Reg. 447/03, s. 1 (24).

(2.1) For the purposes of the definition of “commercial fertilizer” in subsection (1), a commercial fertilizer does not include a fertilizer or supplement that is exempt from the *Fertilizers Act* (Canada) and the *Fertilizers Regulations* (Canada) made under that Act under section 3 of those regulations. O. Reg. 204/19, s. 1 (5).

(3) In this Regulation,

- (a) a reference to a nutrient includes a reference to material that contains the nutrient;
- (b) REVOKED: O. Reg. 204/19, s. 1 (6).

O. Reg. 267/03, s.1; O. Reg. 204/19, s. 1 (6).

(4) This Regulation applies to nutrient management strategies prepared in accordance with the regulations, and not to other nutrient management strategies, and references in this Regulation to a nutrient management strategy shall be read as references to a nutrient management strategy prepared in accordance with the regulations, unless the context requires otherwise. O. Reg. 447/03, s. 1 (25).

Surface water

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 does not have established vegetation within the bed of the channel except vegetation dominated by plant communities that require or prefer the continuous presence of water or continuously saturated soil for their survival,
- (b) a lake, reservoir, pond or sinkhole, or
- (c) a wetland, such as a swamp, marsh, bog or fen, but not land that is being used for agricultural purposes that no longer exhibits wetland characteristics, if the wetland,
 - (i) is seasonally or permanently covered by shallow water or has the water close to the surface of the ground, and
 - (ii) has hydric soils and vegetation dominated by hydrophytic or water-tolerant plants. O. Reg. 267/03, s. 2 (1); O. Reg. 447/03, s. 2 (1).

(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.
- 5.5 Dugout ponds.
6. Artificial bodies of water intended for the storage, treatment or recirculation of runoff from farm-animal yards, manure storage facilities and sites and outdoor confinement areas. O. Reg. 267/03, s. 2 (2); O. Reg. 447/03, s. 2 (2); O. Reg. 511/05, s. 2.

Nutrients

3. The application to land of agricultural source materials or non-agricultural source materials is a prescribed use for the purpose of the definition of “nutrient” in section 2 of the Act. O. Reg. 267/03, s. 3.

4. REVOKED: O. Reg. 338/09, s. 2.

FARM UNITS, NASM PLAN AREAS, NASM APPLICATION AREAS AND NASM STORAGE FACILITIES

What constitutes a farm unit

5. (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, 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. If prescribed materials are generated in the course of an agricultural operation carried out on the land, the land of the farm unit must include all land that the current owner of the land on which the materials are generated acquired under a single transfer as defined in the *Land Registration Reform Act* and on which the materials are managed.
3. Despite paragraph 2, the land of the farm unit does not include land to which prescribed materials generated in the course of an agricultural operation are transferred if the nutrient management strategy or plan for the operation provides for the materials to be transferred and if the transfer is done in accordance with this Regulation,
 - i. under a broker agreement,

- ii. under a nutrient transfer agreement,
- iii. to another agricultural operation for application to land, or
- iv. for use other than as a nutrient.

4. A part of a farm unit on which agricultural source material is generated may be located at any distance from a part of the farm unit where the material is applied to land. O. Reg. 267/03, s. 5 (1); O. Reg. 338/09, s. 4; O. Reg. 848/21, s. 2.

(2) If a person owns or controls land in relation to which a nutrient management strategy or plan has been or is being prepared, a 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. O. Reg. 267/03, s. 5 (2).

(3) A Director shall have regard to the rules described in subsection (1) in making a decision to designate land as a farm unit. O. Reg. 267/03, s. 5 (3).

NASM plan areas

5.1 The following rules apply to NASM plan areas:

1. The person who owns or controls an agricultural operation to which section 15.2 applies has discretion, subject to paragraphs 2 to 5, to define NASM plan areas.
2. A separate NASM plan is required for each NASM plan area.
3. More than one NASM plan area may be included within the same farm unit.
4. All of a NASM plan area must be included within one farm unit.
5. No NASM application area shall be included within more than one NASM plan area. O. Reg. 338/09, s. 5.

NASM application areas

5.2 The following rules apply to NASM application areas:

1. A NASM application area has no minimum size.
2. More than one NASM application area may be included within the same NASM plan area.
3. All of a NASM application area must be included within one NASM plan area.
4. No land can be included within more than one NASM application area. O. Reg. 338/09, s. 5.

NASM storage facilities

5.3 The following rules apply to NASM storage facilities:

1. A NASM storage facility is not required to be contiguous to the NASM application area with which it is associated.
2. A NASM storage facility may be associated with more than one NASM application area, including application areas that are part of different NASM plan areas within the same farm unit.
3. A NASM plan area,
 - i. may include one or more NASM storage facilities, and
 - ii. is not required to include any NASM storage facility.
4. A permanent nutrient storage facility or temporary field nutrient storage site that is used to store NASM and is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*,
 - i. is not a NASM storage facility for the purposes of this Regulation, and

- ii. is not part of a NASM plan area. O. Reg. 338/09, s. 5; O. Reg. 266/11, s. 2.

APPLICATION OF REGULATION

Application of Regulation

6. (1) This Regulation, except for sections 52.6, 98.11, 98.12, 98.12.1, subsection 98.6.3 (3) and Part IX.2, does not apply to a farm unit if the number of farm animals on the farm unit is not sufficient to generate more than five nutrient units of manure annually. O. Reg. 508/21, s. 2.

(2) For the purposes of subsection (1), the number of farm animals may be counted on a single day. O. Reg. 338/09, s. 6 (1).

(3) Despite subsection (1), this Regulation applies to an agricultural operation carried out on a farm unit to which subsection 11 (4.1) applies, whatever the number of nutrient units that are generated by the farm unit. O. Reg. 338/09, s. 6 (2).

(4) Despite subsection (1), this Regulation applies to an agricultural operation carried out on a NASM plan area in any calendar year in which NASM is applied to a NASM application area that is part of the NASM plan area or stored in an associated NASM storage facility, whatever the number of nutrient units that are generated by the relevant farm unit. O. Reg. 338/09, s. 6 (2).

(5) Despite subsection (1), if the person who owns or controls the land on which an agricultural operation is carried out submits an application for a building permit under the *Building Code Act, 1992* with respect to any building or structure that is used to house farm animals or to store manure, that is located or to be located on the land and that would increase the capacity of the operation so that it could generate more than five nutrient units of manure annually, sections 10 and 27 apply to the operation on the day on which the person submits the application. O. Reg. 338/09, s. 6 (2).

(6) Despite subsection (1), if the person who owns or controls the land on which an agricultural operation is carried out constructs or causes to be constructed any building or structure that is used to house farm animals or to store manure, that is located or to be located on the land and that would increase the capacity of the operation so that it could generate more than five nutrient units of manure annually, if a building permit in respect of the building or structure would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code, sections 10 and 27 apply to the operation on the day on which the person constructs the building or structure or causes it to be constructed. O. Reg. 338/09, s. 6 (2).

FARM ANIMAL NUMBERS

No restriction on farm animal numbers

7. 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 made under section 29 or 30 of the Act. O. Reg. 267/03, s. 7.

CONFLICT AND MULTIPLE REQUIREMENTS

Conflict with other instruments

8. Subject to the Act, the requirements of this Regulation are in addition to and independent of the requirements in an approval, order or instrument issued under any other Act, other than a municipal by-law, and in the event of conflict, shall prevail. O. Reg. 267/03, s. 8.

Multiple requirements under Regulation

8.1 (1) If the application of this Regulation results in more than one rate of application of specific nutrients to land, the lowest rate of application prevails. O. Reg. 338/09, s. 8.

(2) If the application of this Regulation results in more than one setback distance with respect to the application of specific nutrients, the greatest setback distance prevails. O. Reg. 338/09, s. 8.

APPROVALS UNDER PART V OF *ENVIRONMENTAL PROTECTION ACT*

Land application of certain materials

8.2 Nothing in this Regulation authorizes the land application of the following materials, which may be applied to land only in accordance with an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*:

1. Untreated septage.
2. Non-agricultural source materials whose content of a regulated metal exceeds that of CM2 NASM.
3. Non-agricultural source materials whose content of *E. coli* exceeds that of CP2 NASM.
4. Non-agricultural source materials whose odour detection threshold exceeds that of OC3 NASM. O. Reg. 266/11, s. 3.

Exemption, Part V of *Environmental Protection Act*

8.3 (1) A NASM plan area that satisfies the following requirements is exempt, in accordance with section 5.0.2 of Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*, from Part V of that Act and from that Regulation:

1. The NASM that is applied to the land or stored on it does not have,
 - i. metal concentrations exceeding CM2,
 - ii. pathogen levels exceeding CP2, or
 - iii. an odour detection threshold exceeding OC3.
 2. The NASM plan and the management of NASM on the NASM plan area comply with this Regulation. O. Reg. 338/09, s. 9; O. Reg. 284/13, s. 2.
- (2) The exemption described in subsection (1) does not apply to a storage site or facility used for the storage of NASM if,
- (a) the NASM is intended for use on a different farm unit; or
 - (b) the storage site or facility is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*. O. Reg. 338/09, s. 9; O. Reg. 266/11, s. 4.

PART II

NUTRIENT MANAGEMENT STRATEGIES, PLANS AND NASM PLANS: GENERAL

NUTRIENT MANAGEMENT STRATEGIES

Application of strategies

9. (1) A nutrient management strategy applies to an agricultural operation carried out on a farm unit. O. Reg. 338/09, s. 11.

(2) A separate nutrient management strategy is required for each farm unit on which an agricultural operation to which a nutrient management strategy applies is carried out. O. Reg. 338/09, s. 11.

Compliance with strategy

10. (1) A person who owns or controls an agricultural operation to which this section applies shall ensure that prescribed materials that are generated, prescribed materials that are received, and anaerobic digestion materials that are managed on a farm unit in the course of the operation are managed in accordance with a nutrient management strategy that is in force with respect to the operation and the farm unit. O. Reg. 508/21, s. 3.

(2) No person shall manage prescribed materials that are generated, prescribed materials that are received and anaerobic digestion materials that are managed on a farm unit in the course of an agricultural operation to which this section applies except in accordance with a nutrient management strategy that is in force with respect to the operation and the farm unit. O. Reg. 508/21, s. 3.

(3) This section does not apply to an agricultural fair at which farm animals are present for 25 days or less if all of the manure generated at the fair is disposed of under a broker agreement. O. Reg. 267/03, s. 10 (3).

Phasing-in, agricultural operations

11. (1) Section 10 applies to an agricultural operation that generates agricultural source materials if the person who owns or controls the land, on which the operation is carried out and that the current owner acquired under a single transfer as defined in the *Land Registration Reform Act*, has not carried out the operation on the land at any time before September 30, 2003 and submits an application, on or after that date and before December 31, 2005, for a building permit under the *Building Code Act, 1992* with respect to any building or structure that is used to house farm animals and that is located or to be located on the land. O. Reg. 267/03, s. 11 (1); O. Reg. 511/05, s. 4 (1).

(2) REVOKED: O. Reg. 511/05, s. 4 (2).

(3) Section 10 applies to an agricultural operation that generates agricultural source materials if the number of farm animals on a farm unit on which the operation is carried out is sufficient, at any time on or after July 1, 2005, to generate 300 or more nutrient units annually. O. Reg. 511/05, s. 4 (3).

(4) Section 10 applies to an agricultural operation that generates agricultural source materials if, at any time on or after December 31, 2005, a person who owns or controls the land on which the operation is carried out,

- (a) submits an application for a building permit under the *Building Code Act, 1992* in respect of any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land;
- (b) constructs or causes to be constructed any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land, if a building permit in respect of the building or structure would be required under the *Building Code Act, 1992*, but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code made under that Act; or
- (c) constructs or causes to be constructed a permanent nutrient storage facility made of earth on the land. O. Reg. 511/05, s. 4 (3); O. Reg. 338/09, s. 13.

(4.1) Section 10 applies to an agricultural operation carried out on a farm unit that receives off-farm anaerobic digestion materials for treatment through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility. O. Reg. 394/07, s. 3 (1).

(5) Section 10 applies to an agricultural operation that generates agricultural source materials at the earliest time that subsections (1), (3), (4) and (4.1) determine that the section is to apply and continues to apply to the operation during each year in which the operation generates agricultural source materials. O. Reg. 511/05, s. 4 (3); O. Reg. 394/07, s. 3 (2).

Construction of buildings or structures

11.1 (1) If this Regulation requires a person who owns or controls an agricultural operation to have a nutrient management strategy for carrying out the operation, no person shall construct a building or structure on a farm unit on which the operation is carried out, where the building or structure is used to house farm animals or store nutrients, unless,

- (a) the nutrient management strategy applicable to the operation carried out on the farm unit contemplates the construction of the building or structure; and
- (b) the nutrient management strategy has been approved in accordance with this Regulation. O. Reg. 394/07, s. 4.

(2) No person shall construct a regulated mixed anaerobic digestion facility on a farm unit on which an agricultural operation is carried out unless the nutrient management strategy applicable to the operation carried out on the farm unit contemplates the construction of the facility and has been approved in accordance with this Regulation. O. Reg. 394/07, s. 4.

12. REVOKED: O. Reg. 338/09, s. 14 (2).

NUTRIENT MANAGEMENT PLANS

Application of plans

13. (1) A nutrient management plan applies to an agricultural operation carried out on a farm unit. O. Reg. 267/03, s. 13 (1).

(2) A separate nutrient management plan is required for each farm unit on which an agricultural operation to which a nutrient management plan applies is carried out. O. Reg. 267/03, s. 13 (2).

Compliance with plan

14. (1) A person who owns or controls an agricultural operation to which this section applies shall ensure that any nutrients that are applied to the land of a farm unit in the course of the operation are managed in accordance with a nutrient management plan that is in force with respect to the operation and the farm unit. O. Reg. 338/09, s. 15.

(2) No person shall manage nutrients that are stored on or applied to the land of a farm unit in the course of an agricultural operation to which this section applies except in accordance with a nutrient management plan that is in force with respect to the operation and the farm unit. O. Reg. 338/09, s. 15.

Phasing-in

15. (1) Subject to subsection (2), section 14 applies to an agricultural operation that is carried out on a farm unit as soon as the person who owns or controls it is required to have a nutrient management strategy for carrying out the operation on the farm unit. O. Reg. 267/03, s. 15; O. Reg. 511/05, s. 5 (1).

(2) Subject to subsection (3), if on the day subsection (1) requires the person who owns or controls an agricultural operation in the course of which nutrients are applied to the land of a farm unit to ensure that the nutrients are managed in accordance with a nutrient management plan, the number of farm animals on the farm unit is not sufficient to generate 300 or more nutrient units annually, section 14 does not apply to the operation until the day on which the number of farm animals on the farm unit is increased to a level that is sufficient to generate 300 or more nutrient units annually. O. Reg. 338/09, s. 16 (2).

(3) Subsection (2) does not apply to an agricultural operation that generates agricultural source materials if any portion of the land of the farm unit used for the operation lies within 100 metres of a municipal well. O. Reg. 511/05, s. 5 (2).

(4) Unless there is already an existing nutrient management plan under this section, section 14 applies to an agricultural operation that treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility on a farm unit the day the regulated mixed anaerobic digestion facility receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in the preceding 12-month period, or any materials listed in Schedule 2B. O. Reg. 508/21, s. 4.

(5) REVOKED: O. Reg. 266/11, s. 5.

NASM PLANS

Application of NASM plans

15.1 (1) A NASM plan applies to an agricultural operation carried out on a NASM plan area if Category 2 or Category 3 NASM is,

- (a) applied to a NASM application area that is part of the NASM plan area; or
- (b) stored in an associated NASM storage facility. O. Reg. 338/09, s. 17.

(2) A separate NASM plan is required for each NASM plan area within which Category 2 or Category 3 NASM is applied to land or stored. O. Reg. 338/09, s. 17.

Compliance with NASM plan

15.2 (1) A person who owns or controls an agricultural operation to which this section applies shall ensure that any Category 2 or Category 3 NASM that is applied to the land of a NASM application area in the course of the operation is managed in accordance with a NASM plan that is in force with respect to the operation and the NASM plan area. O. Reg. 338/09, s. 17.

(2) No person shall manage nutrients that are stored on or applied to the land of a NASM plan area in the course of an agricultural operation to which this section applies except in accordance with a NASM plan that is in force with respect to the operation and the NASM plan area. O. Reg. 338/09, s. 17.

Phasing-in

15.3 (1) Subject to subsections (2), (3) and (4), section 15.2 applies to an agricultural operation in the course of which Category 2 or Category 3 NASM is stored on or applied to the land of a NASM plan area on and after January 1, 2011. O. Reg. 338/09, s. 17.

(2) If, on January 1, 2011, a certificate of approval or provisional certificate of approval under Part V of the *Environmental Protection Act* authorizing the application of the NASM to the land has been issued, has not been suspended or revoked and has not expired, ceased to be in force or otherwise ceased to authorize the application of the NASM to the land, section 15.2 does not apply to the agricultural operation until the earlier of the following:

1. The day the certificate is suspended or revoked or expires, ceases to be in force or otherwise ceases to authorize the application of the NASM to the land.
2. January 1, 2016. O. Reg. 338/09, s. 17.

(3) If, on January 1, 2011, a nutrient management plan that provides for the application of the NASM to the land has been approved under section 28 and the approval has not been suspended or revoked and has not ceased to be in force, section 15.2 does not apply to the agricultural operation until the day on which,

- (a) the nutrient management plan is suspended or revoked or ceases to be in force;
- (b) the person who owns or controls the agricultural operation,
 - (i) applies NASM to a part of the land of the farm unit that is not identified in the plan as land to which NASM will be applied,
 - (ii) applies NASM, other than the specific NASM provided for in the plan, to the land of the farm unit, or
 - (iii) stores NASM on the land of the farm unit in a NASM storage facility that is not identified as such in the plan; or
- (c) there is a change of ownership or control of the agricultural operation. O. Reg. 338/09, s. 17.

(4) After December 31 of the last year set out in a NASM plan, section 15.2 does not apply to the agricultural operation carried out on the NASM plan area unless Category 2 or Category 3 NASM is stored on or applied to the land of the NASM plan area on or after January 1 of the next year. O. Reg. 338/09, s. 17.

**PART III
NUTRIENT MANAGEMENT STRATEGIES, PLANS AND NASM PLANS: PREPARATION**

PRECONDITION

Requirement for other agreements

16. (1) A person who is required to have a nutrient management strategy, plan or NASM plan that mentions a transfer agreement that a person is required to enter into under subsection 20 (1) or an agreement that a broker is required to enter into under subsection 36 (1) or 37 (1) shall,

- (a) enter into those agreements that are applicable to the person or the person's agricultural operation; and
- (b) ensure that the agreements mentioned in clause (a) are in force at the time the strategy, plan or NASM plan comes into force. O. Reg. 338/09, s. 19.

(2) For greater certainty, an agreement mentioned in clause (1) (a) may be amended, or terminated and replaced by another agreement. O. Reg. 338/09, s. 19.

NUTRIENT MANAGEMENT STRATEGIES

Preparation and contents

17. (1) A nutrient management strategy for an agricultural operation,

- (a) must be prepared by a person qualified to do so under Part X;
- (b) must comply with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol;
 - (b.1) must contain a contingency plan;
 - (b.2) must include a declaration prepared in a form and manner specified by a Director that,

- (i) identifies the farm unit on which the operation to which the strategy applies is carried out, and
 - (ii) states that the strategy is complete, that it includes an accurate description of the operation and that it has been completed in accordance with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol; and
- (b.3) must contain an odour management plan where one is required by this Regulation;
- (c) must be signed by,
- (i) the owner of the operation or an authorized agent of the owner, and
 - (ii) the person who prepared the strategy, who is also referred to in clause (a). O. Reg. 267/03, s. 17 (1); O. Reg. 447/03, s. 8; O. Reg. 511/05, s. 7 (1); O. Reg. 338/09, s. 20 (1-3); O. Reg. 284/12, s. 7 (2); O. Reg. 508/21, s. 5.
- (2) A nutrient management strategy for an agricultural operation must account for,
- (a) the maximum total quantity of prescribed materials that the person who owns or controls the operation reasonably believes will be generated in a single year by the operation; and
 - (b) the maximum total quantity of prescribed materials that the person who owns or controls the operation reasonably believes will be received in a single year by the operation. O. Reg. 204/19, s. 3.
- (3) On application by the person responsible for preparing a nutrient management strategy or on receiving a registration of an agricultural operation to which a nutrient management strategy applies, a Director shall assign an operation identifier to the following, unless an operation identifier has already been assigned to the operation:
1. The agricultural operation to which the strategy applies.
 2. The farm unit on which the agricultural operation to which the strategy applies is carried out. O. Reg. 267/03, s. 17 (3); O. Reg. 511/05, s. 7 (2); O. Reg. 338/09, s. 20 (5-7).
- (4) A nutrient management strategy for an agricultural operation that treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility must describe how the requirements of this Regulation respecting mixed anaerobic digestion will be satisfied including, but not limited to,
- (a) describing procedures to be used at the operation to determine whether off-farm anaerobic digestion materials meet the requirements of this Regulation for treatment in mixed anaerobic digestion;
 - (b) describing how any permanent nutrient storage facilities to be used for the storage of off-farm anaerobic digestion materials will satisfy the requirements of this Regulation;
 - (c) describing how the regulated mixed anaerobic digestion facility will satisfy the requirements of this Regulation;
 - (d) describing procedures to be used at the operation to manage anaerobic digestion output in accordance with the requirements of this Regulation. O. Reg. 394/07, s. 5.

18. REVOKED: O. Reg. 204/19, s. 4.

Management of nutrients for non-nutrient purposes

19. 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. O. Reg. 267/03, s. 19.

Transfer of prescribed materials outside operation

20. (1) If this Regulation requires a person who owns or controls an agricultural operation to have a nutrient management strategy that requires the person to transfer prescribed materials generated in the course of the operation to another operation for which this Regulation requires a nutrient management plan or a NASM plan, the person who owns or controls the operation from which the materials are to be transferred shall enter into an agreement with respect to the transfer with the person who owns or controls the operation to which the materials are to be transferred. O. Reg. 338/09, s. 21 (1).

(2) REVOKED: O. Reg. 447/03, s. 9 (1).

(3) The transfer agreement must identify the person who owns or controls the operation from which the materials are to be transferred, the person who owns or controls the operation to which the materials are to be transferred, the type and quantity of the materials to be transferred and the proposed date of transfer. O. Reg. 511/05, s. 9.

(3.1) If this Regulation requires a person who owns or controls an operation to have a nutrient management strategy for carrying out the operation, the nutrient management strategy may provide for the transfer of prescribed materials to another agricultural operation. O. Reg. 447/03, s. 9 (2).

(3.2) If this Regulation requires a person who owns or controls the agricultural operation receiving the prescribed materials mentioned in subsection (3.1) to have a nutrient management plan or a NASM plan for carrying out the operation, the plan or NASM plan must provide for the management of the transferred materials at the operation. O. Reg. 338/09, s. 21 (2).

(4) If a nutrient management strategy provides for prescribed materials generated in the course of an agricultural operation to be transferred elsewhere for management in the course of another operation, the location to which the materials are transferred may be anywhere without regard to the distance from the location of the operation, in the course of which the materials are generated. O. Reg. 267/03, s. 20 (4); O. Reg. 284/13, s. 3.

21. REVOKED: O. Reg. 338/09, s. 22.

Cessation of strategies

22. (1) REVOKED: O. Reg. 204/19, s. 5 (1).

(2) If the person who owns or controls the land on which an agricultural operation is carried out submits an application for a building permit under the *Building Code Act, 1992* with respect to any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land, the strategy ceases to be in force on the day on which the person submits the application except if the strategy contemplates the activity covered by the building permit and the person has submitted the strategy to a Director for approval. O. Reg. 338/09, s. 23.

(3) If the person who owns or controls the land on which an agricultural operation is carried out constructs or causes to be constructed any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land, if a building permit in respect of the building or structure would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code, the strategy ceases to be in force on the day on which the person constructs the building or structure or causes it to be constructed, except if the strategy contemplates the activity that would be covered by the building permit and the person has submitted the strategy to a Director for approval. O. Reg. 338/09, s. 23.

(4) If the person who owns or controls the land on which an agricultural operation is carried out commences the construction of a permanent nutrient storage facility made of earth on the land or causes that construction to commence, the strategy ceases to be in force on the day on which the person takes that action except if the strategy contemplates the construction and the person has submitted the strategy to a Director for approval. O. Reg. 338/09, s. 23.

(5) If the person who owns or controls an agricultural operation treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility, the strategy ceases to be in force on the day on which off-farm anaerobic digestion materials are first received on the farm unit to which the strategy applies unless,

- (a) the strategy contemplates mixed anaerobic digestion in a regulated mixed anaerobic digestion facility; and
- (b) the person who owns or controls the land on which the operation is carried out has submitted the strategy to a Director for approval. O. Reg. 338/09, s. 23.

(5.1) If the person who owns or controls an agricultural operation treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility, the strategy ceases to be in force on the day on which more than 10,000 cubic metres of off-farm anaerobic digestion materials have been received in the preceding 12-month period, unless the strategy contemplates receiving more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period and the person who owns or controls the land on which the operation is carried out has submitted the strategy to a Director for approval. O. Reg. 508/21, s. 6.

(5.2) If the person who owns or controls an agricultural operation treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility, the strategy ceases to be in force on the day on which any materials listed in Schedule 2B are received, unless the strategy contemplates receiving materials listed in Schedule 2B and the person who owns or controls the land on which the operation is carried out has submitted the strategy to a Director for approval. O. Reg. 508/21, s. 6.

(5.3) If the person who owns or controls an agricultural operation treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility commences the construction or expansion of an anaerobic digestion vessel, the strategy ceases to be in force on the day on which the person commences the construction or expansion, unless the strategy contemplates the construction or expansion and the person has submitted the strategy to a Director for approval. O. Reg. 508/21, s. 6.

(6) When there is a change of ownership or control of the agricultural operation,

- (a) if the change adversely affects the capacity of a person who owns or controls the operation to implement the strategy, the strategy ceases to be in force on the day on which the change occurs;
- (b) if the change does not adversely affect the capacity of a person who owns or controls the operation to implement the strategy,
 - (i) the strategy does not cease to be in force, and
 - (ii) a person who owns or controls the operation after the change shall file a notice of the change with a Director, within 15 days after the change takes place. O. Reg. 338/09, s. 23.

(7) REVOKED: O. Reg. 204/19, s. 5 (2).

Activities requiring amendment

22.1 (1) This section applies if a nutrient management strategy that is in force for an agricultural operation contemplates mixed anaerobic digestion in a regulated mixed anaerobic digestion facility in which at least 75 per cent, by volume, of the total amount of anaerobic digestion materials treated are on-farm anaerobic digestion materials. O. Reg. 284/13, s. 4.

(1.1) This section does not apply where section 22 applies. O. Reg. 508/21, s. 7.

(2) No person shall treat anaerobic digestion materials in the facility if less than 75 per cent, by volume, of the total amount are on-farm anaerobic digestion materials, unless,

- (a) an amendment to the strategy is prepared to reflect the decrease in the percentage of on-farm materials treated; and
- (b) the amendment is submitted to a Director for approval and approved by the Director. O. Reg. 284/13, s. 4.

(3) Section 17 applies in respect of the amendment, with necessary modifications and with the additional modifications set out in subsections (4), (5) and (6). O. Reg. 284/13, s. 4.

(4) Despite clause 17 (1) (b.1),

- (a) the amendment is not required to contain a contingency plan;
- (b) an update to the existing contingency plan, accounting for the changes to the agricultural operation that would result from the change in the percentage of on-farm materials, must be prepared before the amendment is submitted for approval; and
- (c) the update to the contingency plan comes into effect if and when the amendment is approved. O. Reg. 284/13, s. 4.

(5) Despite subclause 17 (1) (b.2) (ii), the declaration must state,

- (a) that the proposed amendment is complete;
- (b) that it provides an accurate description of the proposed change in the percentage of on-farm materials;
- (c) that it provides an accurate description of the changes to be made to the facility as a result of the proposed change in the percentage of on-farm materials; and

(d) that the amendment has been prepared in accordance with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol. O. Reg. 284/13, s. 4.

(6) Despite subsection 17 (2), the amendment must account for the maximum total quantity of prescribed materials that the person who owns or controls the operation reasonably believes will be generated and received in a single year by the operation. O. Reg. 204/19, s. 6.

(7) Section 28 applies in respect of the amendment, with necessary modifications. O. Reg. 284/13, s. 4.

NUTRIENT MANAGEMENT PLANS

Purposes

23. A nutrient management plan must give effect to the following purposes in accordance with the Nutrient Management Protocol:

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. O. Reg. 267/03, s. 23; O. Reg. 284/12, s. 7 (2).

Preparation and contents

24. (1) A nutrient management plan for an agricultural operation,

- (a) must be prepared by a person qualified to do so under Part X;
- (b) must comply with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol;
 - (b.1) must include a contingency plan;
 - (b.2) must include a declaration prepared in a form and manner specified by a Director that,
 - (i) identifies the farm unit on which the operation to which the plan applies is carried out, and
 - (ii) states that the plan is complete, that it includes an accurate description of the operation and that it has been completed in accordance with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol; and
- (c) must be signed by,
 - (i) the owner of the operation or an authorized agent of the owner, and
 - (ii) the person who prepared the plan, who is also referred to in clause (a). O. Reg. 267/03, s. 24 (1); O. Reg. 447/03, s. 11; O. Reg. 511/05, s. 12; O. Reg. 338/09, s. 24 (1, 2); O. Reg. 284/12, s. 7 (2).

(2) A nutrient management plan for an agricultural operation must account for the total quantity of nutrients that it is reasonable to expect will be applied to land in the course of the operation during each year for which the plan is prepared. O. Reg. 267/03, s. 24 (2).

(3) A nutrient management plan may deal with land in separate parts, including sections of fields. O. Reg. 338/09, s. 24 (3).

(4) On application by the person responsible for preparing a nutrient management plan, a Director shall assign an operation identifier to the operation to which the plan applies, unless an operation identifier has already been assigned to the operation. O. Reg. 267/03, s. 24 (4); O. Reg. 338/09, s. 24 (4).

25. REVOKED: O. Reg. 204/19, s. 7.

Cessation of plans

26. (1) Subject to subsection (2), a nutrient management plan ceases to be in force for an agricultural operation carried out on a farm unit on the fifth anniversary of,

- (a) the day on which the plan was approved under this Regulation, if the plan was required to be so approved; or

(b) the day on which the plan was prepared, if the plan was not required to be approved under this Regulation. O. Reg. 511/05, s. 14.

(2) A nutrient management plan that does not provide for receiving non-agricultural source materials in the course of carrying out an agricultural operation on a farm unit ceases to be in force on the day on which non-agricultural source material is received in the course of carrying out the operation. O. Reg. 511/05, s. 14.

NASM PLANS

Purposes

26.1 A NASM plan must give effect to the following purposes in accordance with the Nutrient Management Protocol:

1. The optimization of the relationship between the land-based application of nutrients, farm management techniques and crop requirements.
2. The minimization of adverse environmental impact. O. Reg. 338/09, s. 25; O. Reg. 284/12, s. 7 (2).

Preparation and contents

26.2 (1) A NASM plan for a NASM plan area,

- (a) must be prepared by a person qualified to do so under Part X;
- (b) must comply with this Regulation, the Nutrient Management Protocol, the NASM Odour Guide and the Sampling and Analysis Protocol;
- (c) must include a contingency plan;
- (d) must include a declaration prepared in a form and manner specified by a Director that,
 - (i) identifies the farm unit, the NASM plan area, the NASM application area and any associated NASM storage facility,
 - (ii) identifies any area of land within the farm unit where NASM that will be applied to the NASM application area is to be stored in accordance with an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*,
 - (iii) identifies the NASM that is to be applied, and
 - (iv) states that the plan is complete, that it includes an accurate description of the agricultural operation, and that it has been completed in accordance with this Regulation, the Nutrient Management Protocol, the NASM Odour Guide and the Sampling and Analysis Protocol; and
- (e) must be signed by,
 - (i) the owner of the operation or the owner's authorized agent,
 - (ii) the owner of the land where the NASM plan area is located, or the owner's authorized agent, and
 - (iii) the person who prepared the NASM plan, who is also referred to in clause (a). O. Reg. 338/09, s. 25; O. Reg. 266/11, s. 6; O. Reg. 284/12, s. 7.

(2) A NASM plan must account for the total quantity of nutrients that it is reasonable to expect will be applied to the NASM application area in the course of the agricultural operation during each year for which the plan is prepared. O. Reg. 338/09, s. 25.

(3) A NASM plan may deal with land in separate parts, including sections of fields. O. Reg. 338/09, s. 25.

(4) A NASM plan may be prepared for one year or more, up to a maximum of five years, and must identify the year or years for which it is prepared. O. Reg. 338/09, s. 25.

(5) On application by the person responsible for preparing a NASM plan, a Director shall assign an operation identifier to the agricultural operation to which the plan applies, unless an operation identifier has already been assigned to the operation. O. Reg. 338/09, s. 25.

Cessation of NASM plans

26.3 (1) Subject to subsection (2), a NASM plan ceases to be in force for an agricultural operation carried out on a NASM plan area on December 31 of the last year set out in the plan. O. Reg. 338/09, s. 26.

(2) If there is a change of ownership or control of the agricultural operation, the plan ceases to be in force on the day the change takes place. O. Reg. 338/09, s. 26.

Activities requiring notice or amendment

26.4 (1) If a NASM plan is in force for an agricultural operation carried out on a NASM plan area, no person shall apply NASM to land on the NASM plan area that is not identified as a NASM application area in the plan, unless,

- (a) the plan is amended to identify that land as a NASM application area;
- (b) if the plan requires the approval of a Director, it is submitted to a Director for approval and approved by the Director; and
- (c) if the plan does not require the approval of a Director, the person who owns or controls the agricultural operation files a notice of the amendment with a Director. O. Reg. 338/09, s. 26.

(2) If a NASM plan is in force for an agricultural operation carried out on a NASM plan area, no person shall apply NASM other than the specific NASM provided for in the plan to a NASM application area identified in the plan, unless,

- (a) the plan is amended to provide for the application of the other NASM;
- (b) if the plan requires the approval of a Director, it is submitted to a Director for approval and approved by the Director; and
- (c) if the plan does not require the approval of a Director, the person who owns or controls the agricultural operation files a notice of the amendment with a Director. O. Reg. 338/09, s. 26.

(3) If a NASM plan is in force for an agricultural operation carried out on a NASM plan area, no person shall store NASM on the NASM plan area in a NASM storage facility that is not identified in the plan, unless,

- (a) the plan is amended to provide for the storage of the NASM in the facility;
- (b) if the plan requires the approval of a Director, it is submitted to a Director for approval and approved by the Director; and
- (c) if the plan does not require the approval of a Director, the person who owns or controls the agricultural operation files a notice of the amendment with a Director. O. Reg. 338/09, s. 26.

(4) Subsections 26.2 (1), (2) and (3) apply in respect of the amendment, with any necessary modifications and with the additional modifications set out in subsections (5), (6) and (7). O. Reg. 204/19, s. 8.

(5) Despite clause 26.2 (1) (c),

- (a) the existing contingency plan must be updated to account for the changes to the NASM application area, the NASM to be received by the agricultural operation and the NASM storage facilities, and this must be done before the amended NASM plan is submitted for approval, where applicable; and
- (b) the update to the contingency plan comes into effect if and when the amended NASM plan is approved, if the plan requires approval, and upon its being made, otherwise. O. Reg. 204/19, s. 8.

(6) Despite clause 26.2 (1) (d), the declaration must state that the NASM plan as amended,

- (a) is complete;
- (b) provides an accurate description of any changes made to the NASM application area, the NASM to be received by the agricultural operation and the NASM storage facilities;
- (c) provides an accurate description of any other changes to be made to the agricultural operation as a result of the changes referred to clause (b); and
- (d) has been prepared in accordance with this Regulation, the Nutrient Management Protocol and the Sampling and Analysis Protocol. O. Reg. 204/19, s. 8.

(7) Despite subsection 26.2 (2), the amended NASM plan must account for the total quantity of nutrients that it is reasonable to expect will be applied to the NASM application area in the course of the agricultural operation during each year for which the plan is prepared. O. Reg. 204/19, s. 8.

(8) In the case of a NASM plan that required approval of the Director, section 28 applies in respect of the amendment, with necessary modifications. O. Reg. 204/19, s. 8.

PART IV NUTRIENT MANAGEMENT STRATEGIES, PLANS AND NASM PLANS: APPROVAL, REGISTRATION AND NOTICE

APPROVAL

Requirement for approval

27. (1) A nutrient management strategy for an agricultural operation requires the approval of a Director if,

- (a) a person who owns or controls the land on which the operation is carried out submits an application for a building permit under the *Building Code Act, 1992* in respect of any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land;
- (b) a person who owns or controls the land on which the operation is carried out constructs or causes to be constructed any building or structure that is used to house farm animals or to store manure and that is located or to be located on the land, if a building permit in respect of the building or structure would be required under the *Building Code Act, 1992*, but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code;
- (c) a person who owns or controls the land on which the operation is carried out constructs or causes to be constructed on the land a permanent nutrient storage facility that is made of earth and is intended to store manure;
- (d) the person who owns or controls the land on which the operation is carried out treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility; or
- (e) any portion of the land of the farm unit used for the operation lies within 100 metres of a municipal well. O. Reg. 338/09, s. 28 (1); O. Reg. 204/19, s. 9 (1).

(2) REVOKED: O. Reg. 204/19, s. 9 (2).

(3) A nutrient management plan does not require the approval of a Director. O. Reg. 338/09, s. 28 (2).

(4) A NASM plan requires the approval of a Director if,

- (a) the plan provides for,
 - (i) the application of Category 3 NASM, or Category 2 NASM that is CM2, or
 - (ii) storage of Category 2 or Category 3 NASM in a NASM storage facility; or
- (b) a Director gives a notice in accordance with section 27.1. O. Reg. 338/09, s. 28 (2).

Notice requiring NASM plan, etc.

27.1 (1) If a Director has reasonable grounds to believe that the management of NASM in the course of an agricultural operation may cause an adverse effect or is not in accordance with the standards established in this Regulation for OC1, OC2 and OC3 NASM, he or she may give a person who owns or controls the operation written notice requiring the person,

- (a) to prepare a NASM plan, if this Regulation does not already require a NASM plan for the operation, and submit it to the Director for approval under section 28; or
- (b) to submit the operation's NASM plan to the Director for approval under section 28, if this Regulation already requires a NASM plan for the operation but does not require the approval of a Director. O. Reg. 338/09, s. 29.

(2) A person who receives a notice under subsection (1) shall not apply NASM to the land of the farm unit until a NASM plan has been prepared and approved. O. Reg. 338/09, s. 29.

(3) A notice under subsection (1) shall contain a statement of the prohibition in subsection (2). O. Reg. 338/09, s. 29.

(4) Before giving a notice under subsection (1), the Director shall give the person a draft of the notice, with reasons, and an opportunity to make written submissions to the Director during the period that ends 15 days after the draft is given. O. Reg. 338/09, s. 29.

(5) When the Director has given a notice under subsection (1),

- (a) section 15.2 applies to the agricultural operation;
- (b) section 52.10 applies with respect to the application of NASM to the land of the farm unit; and
- (c) sections 93, 94, 95, 98.0.1 and 98.0.7 apply with respect to any Category 1 or Category 2 NASM that is used in the course of the agricultural operation, as if it were Category 3 NASM described in section 98.0.1. O. Reg. 338/09, s. 29.

(6) Subsection (5) applies to the agricultural operation until the earliest of the following dates:

- 1. The date on which the person receives a notice from the Director confirming that the concerns that led to the notice under subsection (1) have been satisfactorily addressed.
- 2. December 31 of a year during which NASM was not applied to or stored on a NASM plan area on the farm unit.
- 3. January 1 of a given year if, during the preceding year, the person gives the Director written notice that NASM will not be applied to or stored on a NASM plan area on the farm unit during the given year. O. Reg. 338/09, s. 29.

Procedure for obtaining approval

28. (1) A person who applies for the approval of a Director for a nutrient management strategy or NASM plan shall submit the strategy or NASM plan to him or her. O. Reg. 338/09, s. 30 (2).

(2) The Director shall, as he or she considers necessary for the purposes of the Act or this Regulation,

- (a) approve the strategy or NASM plan, with or without the conditions described in subsection (4);
- (b) request the person to provide further relevant information; or
- (c) refuse to approve the strategy or NASM plan and request the person to revise it and resubmit it in accordance with the directions in the notice mentioned in subsection (3). O. Reg. 338/09, s. 30 (2).

(3) Upon taking an action described in clause (2) (a) or (c), the Director shall deliver a notice to the person. O. Reg. 338/09, s. 30 (2).

(4) The Director may impose conditions on any of the activities described in the strategy or NASM plan, or amend such conditions, as the Director considers necessary to prevent, decrease or eliminate an adverse effect or to prevent NASM from being managed in a way that is not in accordance with the standards established in this Regulation for OC1, OC2 and OC3 NASM. O. Reg. 338/09, s. 30 (2).

(5) If a strategy or NASM plan contains a condition imposed by the Director under subsection (4) or section 31.1, the person who owns or controls the agricultural operation,

- (a) shall ensure that the condition is complied with; and
- (b) shall not, without the Director's approval, make changes to the strategy or NASM plan that are inconsistent with compliance with the condition. O. Reg. 338/09, s. 30 (2).

(6) Subsection (5) also applies, with necessary modifications, if a strategy or NASM plan contains a condition amended by the Director under subsection (4) or section 31.1. O. Reg. 338/09, s. 30 (2).

Review and update

28.1 The person who owns or controls an agricultural operation shall, on or before February 15 in each year,

- (a) review and, if necessary, update any nutrient management strategy, plan or NASM plan that relates to the operation to ensure that it accurately reflects the operation on the farm unit or NASM plan area during the current year, including any anticipated changes to the operation during the current year; and
- (b) prepare a written statement that,
 - (i) indicates that an annual review of the nutrient management strategy, plan or NASM plan was completed in compliance with this section,
 - (ii) indicates whether the annual review identified any change in operations that requires an update to the nutrient management strategy, plan or NASM plan, as the case may be, and
 - (iii) if an update to the nutrient management strategy, plan or NASM plan, as the case may be, was required as a result of the annual review, briefly describes the update and the date the document was updated. O. Reg. 204/19, s. 10.

Renewal after five years

29. If a nutrient management plan is in force for an agricultural operation and if the operation is to continue being carried out after the plan ceases to be in force under subsection 26 (1), a person who owns or controls the operation shall have a new nutrient management plan prepared for the operation at least 90 days before the original plan ceases to be in force. O. Reg. 204/19, s. 11.

Renewal after less than five years

30. (1) If a nutrient management strategy that requires the approval of a Director is in force for an agricultural operation and the operation is to continue after the strategy ceases to be in force under subsection 22 (2), (3), (4), (5), (5.1), (5.2) or (5.3), a person who owns or controls the operation shall submit a new nutrient management strategy for the operation to a Director for approval before the original strategy ceases to be in force. O. Reg. 338/09, s. 33 (2); O. Reg. 508/21, s. 8.

(2) If a nutrient management strategy that requires the approval of a Director is in force for an agricultural operation and the operation is to continue after the strategy ceases to be in force under clause 22 (6) (a), a person who owns or controls the operation after the change in ownership or control shall,

- (a) notify a Director of the change, no later than 15 days after it occurs; and
- (b) submit a new nutrient management strategy for the operation to a Director for approval, no later than three months after the change. O. Reg. 338/09, s. 33 (2).

(3) If a NASM plan that requires the approval of a Director is in force for an agricultural operation and the operation is to continue after the NASM plan ceases to be in force under subsection 26.3 (2), a person who owns or controls the operation shall submit a new NASM plan for the operation to a Director for approval. O. Reg. 338/09, s. 33 (2).

(4) During the period that begins when the original NASM plan ceases to be in force and ends on the date on which the Director approves the new NASM plan, no person shall,

- (a) receive Category 3 NASM, or Category 2 NASM that is CM2, on the NASM plan area; or
- (b) apply NASM described in clause (a) to the land of the NASM plan area. O. Reg. 338/09, s. 33 (2).

(5) Section 28 applies to the application for approval submitted under subsection (1), (2) or (3). O. Reg. 338/09, s. 33 (2).

(6) Despite section 10, if the person described in subsection (1) or (2) complies with the applicable subsection, the operation may continue to be carried out from the date on which the event occurs that causes the strategy or plan to cease to be in force until the earliest of whichever of the following dates are applicable:

1. The date on which the Director actually approves the new strategy or plan.
2. The date on which the Director refuses to approve the new strategy or plan.
3. The date on which a provincial officer or Director issues an order under section 29 of the Act stating that the new strategy or plan is no longer approved. O. Reg. 338/09, s. 33 (2).

(7) Despite section 15.2, if the person described in subsection (3) complies with that subsection and with subsection (4), the operation may continue to be carried out from the date on which the event occurs that causes the NASM plan to cease to be in force until the earliest of whichever of the following dates are applicable:

1. The date on which the Director actually approves the new NASM plan.
2. The date on which the Director refuses to approve the new NASM plan.
3. The date on which a provincial officer or Director issues an order under section 29 of the Act stating that the operation may no longer be carried out under this subsection. O. Reg. 338/09, s. 33 (2).

31. REVOKED: O. Reg. 338/09, s. 34.

Amendment of approval

31.1 (1) A Director may amend an approval to impose, amend or remove conditions at any time after the approval is issued,

- (a) on his or her own initiative, if the Director considers it necessary to do so for the purposes of the Act or this Regulation; or
- (b) with the consent of the person who owns or controls the operation or the farm unit on which the operation is carried out. O. Reg. 338/09, s. 35.

(2) On amending an approval under subsection (1), the Director shall notify the person who owns or controls the operation or the farm unit on which the operation is carried out of the amendment. O. Reg. 338/09, s. 35.

(3) If an approval is amended under subsection (1), the person who owns or controls the agricultural operation,

- (a) shall ensure that the amendment is complied with; and
- (b) shall not, without the Director's further approval, make changes to the nutrient management strategy, plan or NASM plan that are inconsistent with compliance with the amendment. O. Reg. 338/09, s. 35.

Suspension of approval

31.2 (1) A Director may suspend an approval issued under this Part for a nutrient management strategy or NASM plan for an operation if,

- (a) the Director is of the opinion that the continuing usage of the strategy or NASM plan will result in a health hazard or an adverse effect; and
- (b) one of the following conditions is met:

- (i) the Director has given the person who owns or controls the operation or the farm unit on which the operation is carried out reasonable notice of a deficiency associated with the strategy or NASM plan and the person has not corrected the deficiency,
- (ii) the conditions described in the strategy or NASM plan are not consistent with the conditions that exist on the operation or the farm unit on which the operation is carried out. O. Reg. 447/03, s. 14; O. Reg. 338/09, s. 36 (1-5).

(2) A Director who suspends an approval for a nutrient management strategy or NASM plan for an operation shall notify the person who owns or controls the operation or the farm unit on which the operation is carried out of the suspension. O. Reg. 447/03, s. 14; O. Reg. 338/09, s. 36 (6).

(3) A Director may reinstate an approval that has been suspended if the reason for suspending the approval no longer exists and there are no additional grounds for suspending the approval. O. Reg. 447/03, s. 14.

Revocation of approval

31.3 (1) A Director may revoke an approval of a nutrient management strategy or NASM plan issued under this Part if,

- (a) the approval was issued on the basis of false information or information that was incomplete;
- (b) the approval was issued in error or to the wrong person;

- (c) the person who owns or controls the operation or the farm unit on which the operation is carried out has not complied with the approval;
 - (d) the approval has been suspended; or
 - (e) the person who owns or controls the operation or the farm unit on which the operation is carried out consents to the revocation. O. Reg. 447/03, s. 14; O. Reg. 338/09, s. 37 (1, 2).
- (2) A Director who revokes an approval for a nutrient management strategy or NASM plan for an operation shall notify the person who owns or controls the operation or the farm unit on which the operation is carried out of the revocation. O. Reg. 447/03, s. 14; O. Reg. 338/09, s. 37 (3).

REGISTRATION

Registration of agricultural operations

32. (1) If this Regulation requires a person who owns or controls an agricultural operation to ensure that there is in force a nutrient management strategy for the operation but does not require that it have the approval of a Director, the person shall register the operation by filing with a Director a description of the operation prepared in accordance with the Nutrient Management Protocol. O. Reg. 511/05, s. 20; O. Reg. 284/12, s. 7 (2).

(2) An agricultural operation shall be deemed to be registered under subsection (1) if,

- (a) this Regulation requires the person who owns or controls the operation to ensure that a nutrient management strategy is in force for the operation but does not require that it have the approval of a Director;
- (b) before September 29, 2005, this Regulation required the person to ensure that a nutrient management strategy be in force for the operation and that it have the approval of a Director; and
- (c) a nutrient management strategy for the operation received the approval of a Director before the date mentioned in clause (b) and is still in force. O. Reg. 511/05, s. 20.

(3) If this Regulation requires a person who owns or controls an agricultural operation to ensure that there is in force a NASM plan for a NASM plan area on which the operation is carried out, but does not require that it have the approval of a Director, the person shall register the operation by filing with a Director a description of the operation prepared in accordance with the Nutrient Management Protocol. O. Reg. 338/09, s. 38; O. Reg. 284/12, s. 7 (2).

33. REVOKED: O. Reg. 511/05, s. 20.

34. REVOKED: O. Reg. 447/03, s. 15.

PART V BROKERS

Requirement for strategy or plan at source or destination

35. A broker shall not accept agricultural source materials from an operation or transfer agricultural source materials to an operation if,

- (a) this Regulation requires the person who owns or controls the operation to ensure that a nutrient management strategy or plan is in force in relation to the management of the materials; and
- (b) no such nutrient management strategy or plan is in force. O. Reg. 338/09, s. 39.

Arrangements with generators and other sources

36. (1) A broker who receives agricultural source materials from a generator, who under this Regulation is required to have a nutrient management strategy to carry out the operation in the course of which the materials were generated, shall enter into an agreement with the generator that sets out the type and quantity of the materials to be received and the proposed date on which the broker is to receive them. O. Reg. 511/05, s. 21 (1); O. Reg. 338/09, s. 40 (1).

(2) A broker who is required to enter into an agreement described in subsection (1) shall create a record of the following information:

1. The type and quantity of the agricultural source materials to be received and the projected 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. O. Reg. 267/03, s. 36 (2); O. Reg. 447/03, s. 17; O. Reg. 511/05, s. 21 (2); O. Reg. 338/09, s. 40 (2).

(3) The broker shall retain the records required by subsection (2) for four years after the date of receiving the agricultural source materials. O. Reg. 267/03, s. 36 (3); O. Reg. 338/09, s. 40 (3).

(4) If a broker receives agricultural source materials from an intermediate generator, this section applies as if the generator were the only one to have generated the materials. O. Reg. 267/03, s. 36 (4); O. Reg. 338/09, s. 40 (4, 5).

Arrangements with receivers

37. (1) A broker who transfers agricultural source materials to an agricultural operation for which this Regulation requires a nutrient management plan or NASM plan shall,

- (a) enter into an agreement with the person who owns or controls the operation that sets out the type and quantity of the materials to be transferred and the proposed date on which the broker is to transfer them; and
- (b) ensure that the materials are transferred in accordance with a nutrient management plan or NASM plan. O. Reg. 338/09, s. 41 (1).

(2) The broker shall create a record of the following information:

1. The type and quantity of agricultural source materials transferred and the date of transfer.
2. A description of the operation to which the materials are transferred.
3. The operation identifier for the operation or for the farm unit where the operation is carried out, if applicable.
4. The approval number assigned by the Director to the nutrient management strategy or NASM plan for the farm unit or operation, if applicable. O. Reg. 267/03, s. 37 (2); O. Reg. 511/05, s. 22 (2, 3); O. Reg. 338/09, s. 41 (2, 3).

(3) The broker shall retain the records required by subsection (2) for four years after the date of transferring the agricultural source materials. O. Reg. 267/03, s. 37 (3); O. Reg. 338/09, s. 41 (4).

Management of agricultural source materials

38. No person shall store, transport or otherwise manage agricultural source materials in the course of a broking operation except in accordance with this Regulation. O. Reg. 338/09, s. 42.

PART VI LAND APPLICATION STANDARDS

GENERAL

Interpretation

39. (1) In this Part,

“restricted period” means the period that begins on December 1 in any year and ends on March 31 of the following year. O. Reg. 338/09, s. 43.

(2) In this Part, a reference to surface application does not imply any restriction on later tillage. O. Reg. 338/09, s. 43.

Duty of person who owns or controls agricultural operation

40. A person who owns or controls an agricultural operation shall ensure that the requirements of this Part are met in relation to the operation. O. Reg. 338/09, s. 43.

Application of Part

41. (1) Sections 52.3 and 52.6 apply in respect of all agricultural operations. O. Reg. 338/09, s. 43.

(2) Sections 42 to 52.2, 52.4, 52.5 and 52.7 to 52.13 apply as follows:

1. If this Regulation requires an agricultural operation to have a nutrient management plan, those sections apply to the application of nutrients to land in the course of the operation.
 2. If this Regulation requires an agricultural operation to have a NASM plan, those sections apply to the application of nutrients to the relevant NASM application area.
 3. If Category 1 NASM is applied to a NASM application area in the course of an agricultural operation, those sections apply to the application of nutrients to the NASM application area during the calendar year in which the Category 1 NASM is applied.
- O. Reg. 338/09, s. 43.

LIQUID NASM AND LIQUID MANURE

150-metre zone

42. Sections 43, 44 and 45 apply to every area where liquid NASM or liquid manure are applied within the zone that is 150 metres from the top of the bank of surface water. O. Reg. 338/09, s. 43.

Non-agricultural source materials, October 1 to June 14

43. (1) This section applies during the period that begins on October 1 in any year and ends on June 14 of the following year. O. Reg. 338/09, s. 43.

(2) No person shall apply liquid non-agricultural source materials to an area,

- (a) if the runoff potential for the area shown on the Table to subsection (3) shows that no application is allowed;
- (b) at a rate in excess of that determined under the Table to subsection (4); or
- (c) if the maximum sustained slope of the area is 12 per cent or greater. O. Reg. 338/09, s. 43.

(3) The runoff potential of land for a hydrologic soil group set out in Column 1 of the following Table is set out in Columns 2, 3 or 4 opposite it where a liquid NASM is applied to an area with a maximum sustained slope described in the heading of Columns 2, 3 or 4.

TABLE
RUNOFF POTENTIAL

Column 1 Hydrologic soil group	Column 2 Maximum sustained slope of at least 3% but less than 6%	Column 3 Maximum sustained slope of at least 6% but less than 9%	Column 4 Maximum sustained slope of at least 9% but less than 12%
A	Very low	Low	High
B	Low	Moderate	High
C	Moderate	High	No application allowed
D	High	High	No application allowed

O. Reg. 328/17, s. 1.

(4) The maximum rate within a 24-hour period for the application of liquid NASM to an area, in the case of an area for which the runoff potential is set out in Column 1 of the following Table, is set out,

- (a) in Column 2 opposite it, if the materials are applied to the surface of the area;
- (b) in Column 3 opposite it, if the materials are injected or incorporated into the area or if the area is pre-tilled:

TABLE
MAXIMUM APPLICATION RATE

Column 1 Runoff potential of land	Column 2 Maximum rate of application within 24-hour period if materials are applied to surface of area, in cubic metres per hectare	Column 3 Maximum rate of application within 24-hour period if materials are injected or incorporated into area or if area is pre-tilled, in cubic metres per hectare
High	50	75
Moderate	75	100
Low	100	130
Very low	130	150

O. Reg. 338/09, s. 43.

(5) For the purposes of subsection (4), materials are incorporated into an area only if they are incorporated into it within 24 hours of being applied. O. Reg. 338/09, s. 43.

(6) For the purposes of subsection (4), an area is pre-tilled only if the tillage occurred not more than seven days before the application of the liquid NASM. O. Reg. 338/09, s. 43.

Non-agricultural source materials, June 15 to September 30

44. (1) This section applies during the period that begins on June 15 in any year and ends on September 30 of the same year. O. Reg. 338/09, s. 43.

(2) No person shall apply liquid non-agricultural source materials to an area whose maximum sustained slope is 12 per cent or greater. O. Reg. 338/09, s. 43.

(3) No person shall apply liquid non-agricultural source materials, at a rate that exceeds 130 cubic metres per hectare within a 24-hour period, to an area whose maximum sustained slope is less than 12 per cent. O. Reg. 338/09, s. 43.

(4) Subsections (2) and (3) apply in respect of all hydrologic soil groups. O. Reg. 338/09, s. 43.

Manure

45. No person shall apply liquid manure to an area whose maximum sustained slope is 25 per cent or greater. O. Reg. 338/09, s. 43.

WELLS AND NON-AGRICULTURAL LAND USES

Setbacks from wells

46. (1) No person shall apply nutrients to land closer than 100 metres to a municipal well. O. Reg. 338/09, s. 43.

(2) No person shall apply prescribed materials to land closer than 15 metres to a drilled well that has a depth of at least 15 metres and a watertight casing to a depth of at least six metres below ground level. O. Reg. 338/09, s. 43.

(3) No person shall apply the following to land closer than 30 metres to a well, other than a well described in subsection (1) or (2):

1. Agricultural source materials.
2. Non-agricultural source materials that are both CM1 and CP1. O. Reg. 338/09, s. 43.

(4) No person shall apply non-agricultural source materials that are CM2 or CP2 to land closer than 90 metres to a well, other than a well described in subsection (1) or (2). O. Reg. 338/09, s. 43.

(5) No person shall apply commercial fertilizer or compost that meets the requirements for Category AA or A compost in Part II of the Compost Standards to land closer than three metres to a water well that is not a municipal well. O. Reg. 284/12, s. 2 (2).

Setbacks and other requirements relating to non-agricultural uses

47. No person shall apply to land NASM that is OC1, OC2 or OC3, except in accordance with the standards set out in the Table to this section. O. Reg. 338/09, s. 43.

TABLE
SETBACKS AND OTHER REQUIREMENTS FOR APPLICATION OF NASM THAT IS OC1, OC2 OR OC3, RELATING TO NON-
AGRICULTURAL USES

Item	Column 1 Odour category of NASM	Column 2 Requirements for dwelling	Column 3 Requirements for residential areas and commercial, community or institutional uses
1.	OC1	No application is permitted within 25 metres of a dwelling. No restrictions beyond the 25-metre perimeter.	No application is permitted within 50 metres of the residential area or commercial, community or institutional use. No restrictions beyond the 50-metre perimeter.
2.	OC2	No application is permitted within 25 metres of the dwelling. In the zone that is at least 25 metres but not more than 90 metres away from the dwelling, application is permitted, but only by, (i) injection, or (ii) spreading and incorporation within six hours. No restrictions beyond the 90-metre perimeter.	No application is permitted within 50 metres of the residential area or commercial, community or institutional use. In the zone that is at least 50 metres but not more than 450 metres away from the residential area or commercial, community or institutional use, application is permitted, but only by, (i) injection, or (ii) spreading and incorporation within six hours. No restrictions beyond the 450-metre perimeter.

3.	OC3	<p>No application is permitted within 100 metres of the dwelling.</p> <p>In the zone that is at least 100 metres but not more than 450 metres away from the dwelling, application is permitted, but only by,</p> <p>(i) injection, or</p> <p>(ii) spreading and incorporation within six hours, but only if the physical properties of the NASM are such that injection is not possible.</p> <p>In the zone that is more than 450 metres away from the dwelling, application is permitted, but only by,</p> <p>(i) injection, or</p> <p>(ii) spreading and incorporation into the soil within 24 hours.</p>	<p>No application is permitted within 200 metres of the residential area or commercial, community or institutional use.</p> <p>In the zone that is at least 200 metres but not more than 900 metres away from the residential area or commercial, community or institutional use, application is permitted, but only by,</p> <p>(i) injection, or</p> <p>(ii) spreading and incorporation within six hours, but only if the physical properties of the NASM are such that injection is not possible.</p> <p>In the zone that is more than 900 metres away from the residential area or commercial, community or institutional use, application is permitted, but only by,</p> <p>(i) injection, or</p> <p>(ii) spreading and incorporation into the soil within 24 hours.</p>
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O. Reg. 338/09, s. 43.

GROUND WATER

Minimum depth to ground water, CM1 and CP1 NASM

48. No person shall apply non-agricultural source materials that are both CM1 and CP1 to land unless there is at least 30 centimetres of unsaturated soil at the surface of the land at the time of application. O. Reg. 338/09, s. 43.

Minimum depth to ground water, CM2 or CP2 NASM

49. (1) No person shall apply non-agricultural source materials that are CM2 or CP2 to land unless there is at least 30 centimetres of unsaturated soil at the surface of the land at the time of application. O. Reg. 338/09, s. 43.

(2) No person shall apply non-agricultural source materials that are CM2 or CP2 to land where there is at least 30 centimetres but not more than 90 centimetres of unsaturated soil at the surface of the land, except in accordance with the standards set out in the following Table:

TABLE

APPLICATION STANDARDS FOR CM2 OR CP2 NASM BASED ON RISK OF GROUND WATER CONTAMINATION

Item	Column 1 Level of risk of ground water contamination	Column 2 Standard for surface application of liquid NASM	Column 3 Standard for injection of liquid NASM	Column 4 Standard for surface application of solid NASM
1.	High	No surface application is permitted.	No injection is permitted.	<p>Surface application is permitted if both of the following conditions are satisfied:</p> <p>1. The land is pre-tilled no more than 7 days before the application.</p> <p>2. The maximum rate of application is 18 dry tonnes per hectare per 48 hours.</p>

2.	Moderate	Surface application is permitted if both of the following conditions are satisfied: 1. The land is pre-tilled no more than 7 days before the application. 2. The maximum rate of application is 40 cubic metres per hectare per 48 hours.	No injection is permitted.	Surface application is permitted if one of the following conditions is satisfied: 1. The land is pre-tilled no more than 7 days before the application. 2. The maximum rate of application is 18 dry tonnes per hectare per 48 hours.
3.	Low	Surface application is permitted if one of the following conditions is satisfied: 1. The land is pre-tilled no more than 7 days before application. 2. The maximum rate of application is 40 cubic metres per hectare per 48 hours.	No injection is permitted.	Surface application is permitted if the maximum rate of application is 27 dry tonnes per hectare per 48 hours.
4.	Very low, if land is tile drained	Surface application is permitted if one of the following conditions is satisfied: 1. The land is pre-tilled no more than 7 days before application. 2. The maximum rate of application is 40 cubic metres per hectare per 48 hours.	Injection is permitted if the maximum rate of application is 40 cubic metres per hectare per 48 hours.	No restriction.
5.	Very low, if land is not tile drained	No restriction.	No restriction.	No restriction.

O. Reg. 338/09, s. 43.

(3) For the purposes of Column 1 of the Table to subsection (2), the level of risk of ground water contamination shall be established, immediately before the proposed application, in accordance with the following Table:

TABLE
RISK OF GROUND WATER CONTAMINATION

Item	Column 1 Hydrologic soil group	Level of risk of ground water contamination	
		Column 2 Depth of unsaturated soil at least 30 cm but not more than 60 cm	Column 3 Depth of unsaturated soil more than 60 but not more than 90 cm
1.	A	High	Moderate
2.	B	Moderate	Low
3.	C	Low	Very low
4.	D	Low	Very low

O. Reg. 338/09, s. 43.

(4) This section does not restrict the application of non-agricultural source materials that are CM2 or CP2 to land where there is more than 90 centimetres of unsaturated soil at the surface of the land. O. Reg. 338/09, s. 43.

Application standards, depth to bedrock

50. No person shall apply non-agricultural source materials to land, except in accordance with the standards set out in the following Table:

TABLE
APPLICATION STANDARDS, DEPTH TO BEDROCK

Item	Column 1 Depth to bedrock	Column 2 Liquid NASM that is both CM1 and CP1	Column 3 Liquid NASM that is CM2 or CP2	Column 4 Solid NASM that is both CM1 and CP1	Column 5 Solid NASM that is CM2 or CP2
1.	Less than 30 centimetres	No application is permitted.	No application is permitted.	No application is permitted.	No application is permitted.
2.	30 centimetres or more, but less than 50 centimetres	<p>1. Subject to 2 and 3, application is permitted,</p> <p>(a) at a rate of less than 40 cubic metres per hectare per 48 hours; or</p> <p>(b) at a rate not exceeding 60 cubic metres per hectare per 48 hours, if the land is pre-tilled no more than 7 days before the application.</p> <p>2. No application is permitted during the restricted period.</p> <p>3. Application by injection is not permitted.</p>	No application is permitted.	<p>1. Subject to 2, application is permitted,</p> <p>(a) at a rate of less than 18 dry tonnes per hectare per 48 hours; or</p> <p>(b) at a rate not exceeding 27 dry tonnes per hectare per 48 hours, if the land is pre-tilled no more than 7 days before the application.</p> <p>2. No application is permitted during the restricted period.</p>	No application is permitted.
3.	50 centimetres or more, but less than 100 centimetres	There is no restriction based on depth to bedrock.	<p>1. Subject to 2, application is permitted,</p> <p>(a) at a rate of less than 40 cubic metres per hectare per 48 hours; or</p> <p>or</p> <p>(b) at a rate not exceeding 60 cubic metres per hectare per 48 hours, if the land is pre-tilled no more than 7 days before the application.</p> <p>2. Application by injection is not permitted.</p>	There is no restriction based on depth to bedrock.	<p>Application is permitted,</p> <p>(a) at a rate of less than 18 dry tonnes per hectare per 48 hours; or</p> <p>(b) at a rate not exceeding 27 dry tonnes per hectare per 48 hours, if the land is pre-tilled no more than 7 days before the application.</p>

4.	100 centimetres or more	There is no restriction based on depth to bedrock.	There is no restriction based on depth to bedrock.	There is no restriction based on depth to bedrock.	There is no restriction based on depth to bedrock.
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O. Reg. 338/09, s. 43.

ADJACENT SURFACE WATER

Application of ss. 52 and 52.1

51. (1) The following rules govern the application of sections 52 (vegetated buffer zone) and 52.1 (setback from bank):

1. A person who applies NASM that is CM1 and CP1 and is not required to have a nutrient management plan shall comply with section 52 or 52.1.
2. A person who applies NASM that is CM1 and CP1 and is required to have a nutrient management plan shall comply with section 52.
3. A person who applies NASM that is CM2, CP2 or both and is not required to have a nutrient management plan shall comply with section 52.1.
4. A person who applies NASM that is CM2, CP2 or both and is required to have a nutrient management plan shall comply with sections 52 and 52.1. O. Reg. 338/09, s. 43.

(2) Subsection (1) prevails in the event of conflict with section 52 or 52.1. O. Reg. 338/09, s. 43.

Requirement for vegetated buffer zone

52. (1) No person shall apply nutrients to a field that contains or is adjacent to surface water unless there is a vegetated buffer zone in the field that is adjacent to the surface water and that lies between the surface water and where the nutrients are applied.

O. Reg. 338/09, s. 43.

(2) Subsection (1) does not apply in relation to the application of nutrients to a field that is composed of organic soils. O. Reg. 338/09, s. 43.

(3) No person shall apply nutrients within the vegetated buffer zone except for an amount of commercial fertilizer that is reasonable to establish or maintain the vegetation of the vegetated buffer zone. O. Reg. 338/09, s. 43.

(4) For the purposes of subsection (3), a person applies an amount of commercial fertilizer that is reasonable to establish or maintain the vegetation of a vegetated buffer zone if the person applies the fertilizer,

- (a) in accordance with a determination of the concentration of plant available phosphorus and plant available potassium in the soil of the vegetated buffer zone;
- (b) in accordance with the Agronomy Guide for Field Crops; and
- (c) in such a manner that the agronomic balance does not exceed zero. O. Reg. 338/09, s. 43; O. Reg. 284/12, s. 7 (1).

(5) The determination of the concentration described in clause (4) (a) shall be made using,

- (a) the results of an analysis of a sample of the soil performed in accordance with section 94; or
- (b) the following concentrations:
 - (i) 101 milligrams of plant available phosphorus per litre of soil,
 - (ii) 251 milligrams of plant available potassium per litre of soil. O. Reg. 338/09, s. 43.

(6) No person shall apply materials containing nitrogen and phosphorus to any part of the field, whether or not within the vegetated buffer zone, that is within 13 metres from the top of the nearest bank of the surface water. O. Reg. 338/09, s. 43.

(7) Despite subsection (6), a person may apply commercial fertilizers, agricultural source materials or NASM that is CM1 and CP1 within the 13 metres from the top of the nearest bank of the surface water if the application is done in accordance with this Regulation and at least one of the following conditions is satisfied:

1. The materials are applied by injection or placement in a band below the soil surface.
2. The materials are incorporated within 24 hours of application.
3. The materials are applied to land covered with a living crop.
4. The materials are applied to land with crop residue covering at least 30 per cent of the soil, as determined in accordance with the Nutrient Management Protocol. O. Reg. 338/09, s. 43; O. Reg. 284/12, s. 7 (2).

Setback from top of nearest bank of surface water

52.1 No person shall apply non-agricultural source materials to a field that contains or is adjacent to surface water, if the application is closer than 20 metres from the top of the nearest bank of the surface water. O. Reg. 338/09, s. 43.

APPLICATION DURING RESTRICTED PERIOD AND OTHER TIMES WHEN SOIL IS SNOW-COVERED OR FROZEN

Definitions

52.2 In sections 52.3, 52.4 and 52.5,

“frozen”, when used in reference to soil, means that a layer of soil with an average minimum depth of five centimetres, located within the top 15 centimetres of the soil, is consolidated by the presence of frozen moisture; (“gelé”)

“snow-covered”, when used in reference to soil, means that there is a layer of snow with an average minimum depth of five centimetres. (“enneigé”) O. Reg. 338/09, s. 43.

Prohibition, sewage biosolids, etc.

52.3 (1) No person shall apply nutrients described in subsection (2) to land,

- (a) during the restricted period; or
- (b) at any other time when the soil is snow-covered or frozen. O. Reg. 284/12, s. 3 (1).

(2) Subject to subsection (3), subsection (1) applies to,

- (a) sewage biosolids;
- (b) other materials containing human body waste; and
- (c) materials that result from the processing of materials that include sewage biosolids or human body waste. O. Reg. 284/12, s. 3 (1, 2).

(3) Subsection (1) does not apply to compost that,

- (a) meets the requirements for Category AA compost in Part II of the Compost Standards; or
- (b) meets the requirements for Category A compost in Part II of the Compost Standards, is made without sewage biosolids and is made without domestic septage as defined in Appendix 3 (Glossary) of the Compost Standards. O. Reg. 284/12, s. 3 (1).

(4) REVOKED: O. Reg. 284/12, s. 3 (3).

Prohibition, vulnerable land

52.4 (1) No person shall apply prescribed materials to land described in subsection (2),

- (a) during the restricted period; or
- (b) at any other time when the soil is snow-covered or frozen. O. Reg. 338/09, s. 43.

(2) Subsection (1) applies to,

- (a) land that is subject to flooding once or more every five years according to flood plain mapping provided by the municipality or conservation authority having jurisdiction over the land; and

(b) land where water collects during a rainstorm or thaw and flows directly into surface water. O. Reg. 338/09, s. 43.

(3) For greater certainty, this section does not require a person to create flood plain mapping. O. Reg. 338/09, s. 43.

Requirements for application of prescribed materials

52.5 (1) Subject to sections 52.3 and 52.4, no person shall apply prescribed materials to land, except in accordance with this section,

(a) during the restricted period; or

(b) at any other time when the soil is snow-covered or frozen. O. Reg. 338/09, s. 43.

(2) The following rules govern the application of solid or liquid Category 3 NASM other than sewage biosolids, liquid Category 2 NASM and liquid ASM during the restricted period if the soil is not snow-covered or frozen:

1. Subject to paragraph 2, the application must be done by,

i. injection, or

ii. spreading and incorporation into the soil within the same day.

2. If at least 30 per cent of the land surface is covered by crop residue, as determined in accordance with the Nutrient Management Protocol, or if the land is covered by a living crop, the application must be done by one of the methods described in paragraph 1 or by surface application.

3. The setback from the top of the bank of surface water must be 20 metres or more.

4. If the maximum sustained slope of the land is greater than 3 per cent, the materials must not be applied within 100 metres from the top of the bank of surface water. O. Reg. 338/09, s. 43; O. Reg. 284/12, s. 7 (2); O. Reg. 848/21, s. 3 (1).

(3) The following rules govern the application of solid or liquid Category 3 NASM other than sewage biosolids, liquid Category 2 NASM and liquid ASM at any time when the soil is snow-covered or frozen:

1. The application must be done by,

i. injection, or

ii. spreading and incorporation into the soil within six hours.

2. The setback from the top of the bank of surface water must be 20 metres or more.

3. If the maximum sustained slope of the land is greater than 3 per cent, the materials must not be applied within 100 metres from the top of the bank of surface water. O. Reg. 338/09, s. 43.

(4) The following rules govern the application of solid Category 2 NASM, solid or liquid Category 1 NASM and solid ASM during the restricted period if the soil is not snow-covered or frozen:

1. Subject to paragraph 2, the application must be done by,

i. injection, or

ii. spreading and incorporation into the soil within the same day.

2. If at least 30 per cent of the land surface is covered by crop residue, as determined in accordance with the Nutrient Management Protocol, or if the land is covered by a living crop, the application must be done by one of the methods described in paragraph 1 or by surface application.

3. If the materials are solid Category 2 NASM, or solid or liquid Category 1 NASM, the setback from the top of the bank of surface water must be 20 metres or more.

4. If the materials are solid ASM, there is no minimum setback from the top of the bank of surface water.

5. If the maximum sustained slope of the land is greater than 6 per cent, the materials must not be applied within 100 metres from the top of the bank of surface water. O. Reg. 338/09, s. 43; O. Reg. 284/12, s. 7 (2); O. Reg. 848/21, s. 3 (2).

(5) The following rules govern the application of solid Category 2 NASM, solid or liquid Category 1 NASM and solid ASM at any time when the soil is snow-covered or frozen, if the application is done by injection or by spreading and incorporation into the soil within six hours.

1. If the materials are solid Category 2 NASM, or solid or liquid Category 1 NASM, the setback from the top of the bank of surface water must be 20 metres or more.
2. If the materials are solid ASM, there is no minimum setback from the top of the bank of surface water.
3. If the maximum sustained slope of the land is greater than 6 per cent, the materials must not be applied within 100 metres from the top of the bank of surface water. O. Reg. 338/09, s. 43.

(6) The following rules govern the application of solid ASM at any time when the soil is snow-covered or frozen, if the application is done by surface application:

1. The setback from the top of the bank of surface water must be 100 metres or more.
2. The maximum depth of snow in the area of application must not exceed 15 centimetres.
3. The maximum sustained slope of the area of application must be less than 3 per cent. O. Reg. 338/09, s. 43.

APPLICATION METHODS

High trajectory irrigation guns

52.6 No person shall use a high trajectory irrigation gun capable of spraying liquid more than 10 metres to apply manure or non-agricultural source materials to land except if the material being applied is an aqueous solution or suspension containing more than 99 per cent water by weight. O. Reg. 338/09, s. 43.

Direct flow application systems

52.7 (1) No person shall apply manure or non-agricultural source materials directly from a storage facility to land by a direct flow application system unless the system is operated in accordance with this section. O. Reg. 338/09, s. 43.

(2) Two or more operators in voice or electronic contact with each other at all times during the application may operate a direct flow application system if,

- (a) a first operator has a full view of the area of land to which the manure or non-agricultural source materials 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 that a problem event has occurred. O. Reg. 338/09, s. 43.

(3) One operator may operate a direct flow application system if the operator has a full view of the area of land to which the manure or non-agricultural source materials are being applied and if,

- (a) the operator is close enough to the system to shut it down within one minute after observing that a problem event has occurred; or
- (b) the application system is,
 - (i) linked to a remote control system that allows the operator to shut down the application system within one minute after observing that a problem event has occurred, and
 - (ii) designed to shut down automatically within one minute after it ceases to receive a signal from the remote control system. O. Reg. 338/09, s. 43.

(4) Each person who uses a direct flow application system shall ensure that the system is designed and operated so that when it is shut down no manure or non-agricultural source materials continue to flow from the storage facility by siphoning or other means. O. Reg. 338/09, s. 43.

(5) In this section,

“problem event” means any of the following events:

1. Manure or non-agricultural source materials are 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 non-agricultural source materials are not being applied in accordance with the nutrient management plan or NASM plan for the operation in the course of which they are applied to land.
3. The direct flow application system fails, resulting in manure or non-agricultural source materials escaping into the natural environment otherwise than as intended by the person in charge of operating the system. O. Reg. 338/09, s. 43.

WAITING PERIODS

Pre-harvest waiting period

52.8 (1) No person shall harvest plant material set out in Column 1 of the Table to this section from a field to which NASM that is CM1 and CP1 has been applied unless the waiting period set out in Column 2 opposite the plant material has expired. O. Reg. 338/09, s. 43.

(2) No person shall harvest plant material set out in Column 1 of the Table to this section from a field to which NASM other than NASM that is CM1 and CP1 has been applied unless the waiting period set out in Column 3 opposite the plant material has expired. O. Reg. 338/09, s. 43.

TABLE
PRE-HARVEST WAITING PERIOD

Item	Column 1 Plant material harvested	Column 2 Waiting period before harvest, after application of NASM that is CM1 and CP1	Column 3 Waiting period before harvest, after application of NASM other than NASM that is CM1 and CP1
1.	Commercial sod	3 weeks	12 months
2.	Hay and haylage	3 weeks	3 weeks
3.	Tree fruits and grapes	3 weeks	3 months
4.	Small fruits	3 weeks	15 months
5.	Vegetables	3 weeks	12 months
6.	Tobacco	3 weeks	12 months

O. Reg. 338/09, s. 43.

Pre-grazing waiting period

52.9 (1) No person shall cause or permit a farm animal of a type named in Column 1 of the Table to this section to graze in a field to which NASM that is CM1 and CP1 has been applied unless the waiting period set out in Column 2 opposite the type has expired. O. Reg. 338/09, s. 43.

(2) No person shall cause or permit a farm animal of a type set out in Column 1 of the Table to this section to graze in a field to which NASM other than NASM that is CM1 and CP1 has been applied unless the waiting period set out in Column 3 opposite the type has expired. O. Reg. 338/09, s. 43.

TABLE
PRE-GRAZING WAITING PERIOD

Item	Column 1 Grazing farm animal	Column 2 Waiting period before grazing, after application of NASM that is CM1 and CP1	Column 3 Waiting period before grazing, after application of NASM other than NASM that is CM1 and CP1
1.	Horses, beef or dairy cattle	3 weeks	2 months
2.	Swine, sheep or goats	3 weeks	6 months

O. Reg. 338/09, s. 43.

NOTICE RE APPLICATION OF CATEGORY 2 OR CATEGORY 3 NASM

Notice

52.10 No person shall apply Category 3 NASM, or Category 2 NASM that is CM2, to land unless written advance notice is given to the local district office of the Ministry of the Environment in whose territory the land is located, in accordance with the following rules:

1. The notice shall,
 - i. identify the specific day or days on which the application is to take place, in which case it shall be given at least 24 hours and not more than seven days before the start of the application, or
 - ii. identify the week during which the application is to take place, in which case it shall be given at least 24 hours and not more than seven days before the first day of the identified week.
2. The notice shall,
 - i. include the name of the individual who will apply the NASM and his or her contact information,
 - ii. if the individual acts as an employee of or authorized agent for a corporation, include the corporation's name and contact information,
 - iii. identify the specific NASM that is to be applied,
 - iv. identify the land by lot and concession, and
 - v. give an estimate of the number of hours or days during which the application will continue. O. Reg. 338/09, s. 43; O. Reg. 284/13, s. 5.

MISCELLANEOUS

Particles and foreign objects

52.11 No person shall apply NASM to land if,

- (a) its content of glass, metallic objects, plastic and other foreign objects exceeds 2 per cent, calculated on a dry weight basis;
- (b) its content of plastic exceeds 0.5 per cent, calculated on a dry weight basis; or
- (c) in the case of Category 2 or Category 3 NASM, it contains particles of any material that will not pass through a screen whose largest opening has an area of 2.5 square centimetres. O. Reg. 338/09, s. 43.

Ponding

52.12 Any person who applies NASM to land shall take all reasonable steps to ensure that the NASM does not pond on the surface of the NASM application area or on the surface of other land. O. Reg. 338/09, s. 43.

Discharge to surface water or adjoining land

52.13 Any person who applies NASM to land or stores NASM on land shall take all reasonable steps to ensure that the NASM is not discharged to surface water or to adjoining land. O. Reg. 338/09, s. 43.

PART VII
OUTDOOR CONFINEMENT AREAS

Application

53. This Part applies to low-density and high-density permanent outdoor confinement areas used in the course of an agricultural operation that is carried out on a farm unit on or after the day on which this Regulation requires a person who owns or controls the operation to ensure that a nutrient management strategy is in force for the farm unit. O. Reg. 267/03, s. 53.

54. REVOKED: O. Reg. 511/05, s. 30.

Increase in capacity

55. A person who owns or controls a low-density or high-density permanent outdoor confinement area shall not construct a new structure or pave all or part of the load-bearing surface of the confinement area, so as to increase the capacity of the confinement area, unless the confinement area is not located,

- (a) within 15 metres of a drilled well that has a depth of at least 15 metres and a watertight casing to a depth of at least six metres below ground level;
- (b) within 100 metres of a municipal well;
- (c) within 30 metres of any other well; or
- (d) within 15 metres of a field drainage tile. O. Reg. 267/03, s. 55.

56. REVOKED: O. Reg. 511/05, s. 30.

Access of livestock to surface water

57. No person shall permit animals to have access to surface water if the animals are kept in a high-density permanent outdoor confinement area or a permanent outdoor confinement area used in the course of an agricultural operation that is carried out on a farm unit, on which the number of farm animals is sufficient to generate 300 or more nutrient units annually. O. Reg. 267/03, s. 57.

Nutrient management strategy required

58. No person shall keep animals in a permanent outdoor confinement area unless,

- (a) a nutrient management strategy applies to the confinement area;
- (b) the manure produced by the animals that are kept in the confinement area is managed in accordance with the strategy; and
- (c) the runoff generated by the confinement area is managed in accordance with section 81. O. Reg. 511/05, s. 31.

59. REVOKED: O. Reg. 511/05, s. 32.

Management of manure

60. (1) Manure may be mounded in a permanent outdoor confinement area in order to facilitate the management of animals in the confinement area. O. Reg. 267/03, s. 60 (1); O. Reg. 447/03, s. 26 (1).

(2) A person who owns or controls a permanent outdoor confinement area shall ensure that manure is removed from the confinement area at least once a year or more frequently if the accumulated manure may produce an adverse effect. O. Reg. 267/03, s. 60 (2); O. Reg. 338/09, s. 44.

(3) Despite subsection (2), no person is required to remove manure from a permanent outdoor confinement area if it is intentionally mounded in the confinement area as an animal management and bedding tool, as authorized by an approved nutrient management strategy. O. Reg. 267/03, s. 60 (3); O. Reg. 447/03, s. 26 (2).

(4) A person who owns or controls a permanent outdoor confinement area shall ensure that manure that is removed from the confinement area is managed in accordance with a nutrient management strategy or plan. O. Reg. 267/03, s. 60 (4).

Management of snow that contains manure

61. (1) No person shall store or use snow that contains manure that has been removed from a permanent outdoor confinement area except in accordance with this section. O. Reg. 267/03, s. 61 (1).

(2) No person shall apply, to a field, snow containing manure that has been removed from a permanent outdoor confinement area unless,

- (a) the snow meets the parameters set out in the Nutrient Management Protocol for material that may be removed from outdoor confinement areas;
- (b) the field is designated in a nutrient management plan that provides for the application of the snow to the field;
- (c) the field has a maximum sustained slope of less than 3 per cent;
- (d) the snow is applied no closer than 40 metres from the top of the nearest bank of any surface water in the field and with four times the minimum setback distances for the application of agricultural source materials to land that are specified in section 46;
- (e) there is a six-metre vegetated buffer zone along all surface water in the field and down slope edges of the field; and
- (f) the application rate is one-half of the maximum rate of application for nutrients, measured in units of weight per area of the field, otherwise established for the field. O. Reg. 267/03, s. 61 (2); O. Reg. 284/12, s. 7 (2).

(3) Snow that contains manure that has been removed from a permanent outdoor confinement area may be placed in,

- (a) a permanent nutrient storage facility that is constructed and operated in accordance with Part VIII; or
- (b) a temporary field nutrient storage site that is located and managed in accordance with Part VIII only if a nutrient management strategy or plan authorizes the placement and provides a method for dealing with melt water runoff from the storage site. O. Reg. 267/03, s. 61 (3); O. Reg. 511/05, s. 33.

**PART VII.1
MILKING CENTRE WASHWATER**

Definitions

61.1 In this Part,

“bucket milking system” means a milking system where farm animals are milked directly into buckets which are manually transferred to the milkroom; (“système de traite avec seaux”, “traite avec seaux”)

“bulk tank” means a tank that is designed to store and cool milk; (“cuve à lait”)

“dairy operation” means an agricultural operation where farm animals are milked; (“exploitation laitière”)

“milking centre washwater” means,

- (a) the liquid generated from washing,
 - (i) any part of a milking system,
 - (ii) a bulk tank, and
 - (iii) the interior surfaces of a milkroom and a milking parlour, and
- (b) if cheese, butter, yogurt or any other dairy product is made on the farm unit, exclusively from milk produced there, the liquid generated from washing,
 - (i) the equipment used in making the dairy products, and
 - (ii) the interior surfaces of the rooms containing the equipment; (“eaux de lavage de laiterie”)

“milking parlour” means a common indoor area where farm animals are brought for milking; (“salle de traite”)

“milking system” means a bucket milking system, a parlour milking system, a pipeline milking system, or a robotic milking system; (“système de traite”)

“milkroom” means the room where the bulk tank is located; (“laiterie”)

“parlour milking system” means a milking system where farm animals are brought to a milking parlour for milking, but does not include a robotic milking system; (“système de traite en salle de traite”, “traite en salle de traite”)

“pipeline milking system” means a milking system where milk is transferred to the milkroom, by a pipe, from farm animals who are confined to stalls by means of a tie system; (“système de traite à lactoduc”, “traite à lactoduc”)

“robotic milking system” means a milking system where farm animals present themselves to be milked by an automatic milking unit; (“système de traite robotisée”, “traite robotisée”)

“sediment tank” means a watertight container with at least two compartments that is used to collect and separate settled and floating solids in milking centre washwater and that is,

- (a) a septic tank to which the Building Code applies, or
- (b) a sewage works to which the *Ontario Water Resources Act* applies; (“fosse de décantation”)

“sludge pump-out” means the material that remains in a sediment tank after liquid moves to the treatment trench system; (“boues décantées”)

“treatment trench system” means a system that is used to treat milking centre washwater and distribute it into the soil and that is,

- (a) a leaching bed as defined in the Building Code, or
- (b) a sewage works to which the *Ontario Water Resources Act* applies. (“réseau de tranchées d’épuration”) O. Reg. 338/09, s. 45.

Duty of person who owns or controls agricultural operation

61.2 A person who owns or controls an agricultural operation shall ensure that the requirements of this Part are met in relation to the operation. O. Reg. 338/09, s. 45.

Application of Part to dairy operations with nutrient management strategies

61.3 (1) This Part applies with respect to a dairy operation that is located on a farm unit on which an agricultural operation is carried out,

- (a) if section 10 did not apply to the agricultural operation before January 1, 2011, on the earlier of the dates set out in subsection (2) that follows the date on which section 10 applies to the agricultural operation for the first time;
- (b) if section 10 applied to the agricultural operation before January 1, 2011, on the earlier of the dates set out in subsection (2) that follows the date on which the nutrient management strategy for the agricultural operation ceases to be in force under section 22. O. Reg. 338/09, s. 45.

(2) The dates referred to in clauses (1) (a) and (b) are:

- 1. The date on which an application for a building permit under the *Building Code Act, 1992* is submitted for the farm unit with respect to a type of construction listed in subsection (3) or, if a building permit in respect of such construction would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code, the date on which such construction is commenced.
- 2. January 1, 2016. O. Reg. 338/09, s. 45.

(3) The types of construction referred to in subsection (2) are:

- 1. Erection of a new or replacement milking parlour or milkroom.
- 2. Expansion of an existing milking parlour or milkroom, if the storage capacity of the bulk tank is increased.
- 3. Any construction relating to a new, replacement or existing sediment tank, treatment trench system or milking centre washwater storage facility. O. Reg. 338/09, s. 45.

Application of Part to dairy operations without nutrient management strategies

61.4 (1) Even if section 10 does not apply to an agricultural operation, this Part applies with respect to a dairy operation that is located on a farm unit on which the operation is carried out,

- (a) on the day that an application for a building permit under the *Building Code Act, 1992* is submitted for the farm unit with respect to a type of construction listed in subsection (2); or

(b) on the day that a type of construction listed in subsection (2) is commenced on the farm unit, if a building permit in respect of the construction would be required under the *Building Code Act, 1992*, but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code. O. Reg. 338/09, s. 45.

(2) The types of construction referred to in subsection (1) are:

1. Erection of a new or replacement milking parlour or milkroom.
2. Expansion of an existing milking parlour or milkroom, if the storage capacity of the bulk tank is increased.
3. Any construction relating to a new, replacement or existing sediment tank, treatment trench system or milking centre washwater storage facility. O. Reg. 338/09, s. 45.

Storage of milking centre washwater

61.5 (1) No person shall store milking centre washwater on a farm unit, except in accordance with subsection (2) or (3). O. Reg. 338/09, s. 45.

(2) Milking centre washwater may be stored on a farm unit if it is stored in a permanent liquid nutrient storage facility. O. Reg. 338/09, s. 45.

(3) Milking centre washwater may be stored on a farm unit if it is stored in a permanent solid nutrient storage facility and the following conditions are satisfied:

1. The facility meets the requirements of section 63. For the purposes of this subsection, those requirements apply to existing facilities as well as to new construction and expansion.
2. The facility is equipped with a runoff management system that is capable of managing all the runoff generated by the facility and that complies with section 81.
3. The addition of the milking centre washwater to the facility does not result in a liquid mixture.
4. The amount of milking centre washwater added to the facility on any given day does not exceed 250 litres. O. Reg. 338/09, s. 45.

Storage capacity requirements

61.6 (1) An agricultural operation to which this Part applies shall have, on the farm unit where the dairy operation is located, a permanent nutrient storage facility or a combination of such facilities that is capable of containing at least all of the milking centre washwater generated or received in the course of the operation during a period of 240 days. O. Reg. 338/09, s. 45.

(2) The storage capacity required by subsection (1) is in addition to the storage capacity required by any other provisions of this Regulation. O. Reg. 338/09, s. 45.

(3) Subsection (1) does not apply if an agreement described in subsection 36 (1), entered into by a broker and the person who owns or controls the agricultural operation, is in force and the following conditions are satisfied:

1. In accordance with the agreement, the person sends some of the milking centre washwater generated or received in the course of the operation to the broker.
2. The broker has sufficient storage capacity available for milking centre washwater received from that person so that the person and the broker, together, have storage facilities that are capable of containing at least all of the milking centre washwater generated or received in the course of the operation during a period of 240 days. O. Reg. 338/09, s. 45.

(4) Subsection (1) does not apply if the operation has a nutrient management plan that provides for the land application of milking centre washwater and the following conditions are satisfied:

1. The milking centre washwater storage capacity of the dairy operation is at least equal to the capacity that the plan requires.
2. The plan provides for the land application, on a schedule of times that eliminates the need for storing milking centre washwater on the farm unit for 240 days, of all the milking centre washwater generated or received in the course of the operation during a period of 240 days. O. Reg. 338/09, s. 45.

(5) Subsection (1) does not apply if the operation does not have a nutrient management plan but has an application schedule for the land application of the milking centre washwater generated or received in the course of the operation, and the following conditions are satisfied:

1. The application schedule is consistent with the requirements of Part VI.
2. The application schedule is consistent with the requirements of subsection 92 (2) as if the milking centre washwater were manure or anaerobic digestion output.
3. The milking centre washwater storage capacity of the dairy operation is at least equal to the storage capacity based on the application schedule.
4. The owner or operator keeps a record of the application schedule and the dates on which milking centre washwater is actually applied. The record shows how the applications were carried out in accordance with Part VI, and is maintained in accordance with sections 112 and 113. O. Reg. 338/09, s. 45.

(6) Subsection (1) does not apply if the following conditions are satisfied:

1. Some of the milking centre washwater generated or received in the course of the operation is treated in accordance with section 61.9.
2. The dairy operation has sufficient storage capacity to store the amount of milking centre washwater that is generated or received in the course of the operation during a period of 240 days and is not treated. O. Reg. 338/09, s. 45.

(7) Subsection (1) does not apply if the following conditions are satisfied:

1. The dairy operation has a nutrient management strategy that provides for the use or transfer of some or all of the milking centre washwater that is generated or received in the course of the operation by a means that eliminates the need for storing the nutrients on the farm unit for 240 days.
2. The storage capacity of the operation is at least equal to the storage capacity that the strategy requires. O. Reg. 338/09, s. 45.

Application of Part VIII

61.7 If this Part applies to a dairy operation, Part VIII, except subsection 62.1 (1) and sections 69, 69.1 and 81, also applies with respect to milking centre washwater storage facilities, even if this Regulation does not require the operation to have a nutrient management strategy or nutrient management plan. O. Reg. 338/09, s. 45.

Calculation of required storage capacity

61.8 (1) For the purposes of section 61.6, the required capacity of milking centre washwater storage facilities shall be calculated in accordance with,

- (a) subsection (2), in the case of a dairy operation that has any number of milking cows and uses a robotic milking system;
- (b) Table 1 to this section, in the case of a dairy operation that has 80 or fewer milking cows and does not use a robotic milking system;
- (c) Table 2 to this section, in the case of a dairy operation that has more than 80 milking cows and does not use a robotic milking system;
- (d) Table 3 to this section, in the case of a dairy operation that has 500 or fewer milking goats or milking sheep and meets the conditions set out in subsection (3); and
- (e) the method described in subsection (4), in all other cases. O. Reg. 338/09, s. 45.

(2) In a dairy operation to which this subsection (2) applies, the required capacity of milking centre washwater storage facilities shall be calculated on the basis of daily washwater production of,

- (a) 11 litres per milking cow, in the case of a robotic milking system with brush teat cleaning;
- (b) 20 litres per milking cow, in the case of a robotic milking system with water teat cleaning. O. Reg. 338/09, s. 45.

(3) The conditions mentioned in clause (1) (d) are:

1. The farm animals are milked in a milking parlour that is washed less often than daily.
2. The farm animals are not prepared before milking.
3. Bulk tanks are cleaned once weekly. O. Reg. 338/09, s. 45.

(4) In a dairy operation to which this subsection applies,

- (a) the required capacity of milking centre washwater storage facilities shall be calculated on the basis of measuring the milking centre washwater generated on,
 - (i) two separate days on which the farm animals are milked, and
 - (ii) one day on which the bulk tank is cleaned; and
- (b) records of the calculations and measurements shall be kept. O. Reg. 338/09, s. 45.

TABLE 1

WASHWATER PRODUCTION — SMALLER MILKING COW HERDS; BUCKET, PIPELINE AND PARLOUR MILKING SYSTEMS

Item	Column 1 Number of milking cows	Minimum daily washwater production, total litres/day		
		Column 2 Bucket milking system	Column 3 Pipeline milking system	Column 4 Parlour milking system
1.	30 or fewer	225	450	500
2.	31 – 40	280	560	680
3.	41 – 50	350	700	850
4.	51 – 60	420	840	1020
5.	61 – 70	490	980	1190
6.	71 – 80	560	1120	1360

O. Reg. 338/09, s. 45.

TABLE 2

WASHWATER PRODUCTION — LARGER MILKING COW HERDS; BUCKET, PIPELINE AND PARLOUR MILKING SYSTEMS

Item	Column 1 Milking system	Column 2 Minimum daily washwater production, litres/cow/day
1.	Bucket milking system	7
2.	Pipeline milking system	14
3.	Parlour milking system	17

O. Reg. 338/09, s. 45.

TABLE 3

WASHWATER PRODUCTION — MILKING GOATS AND SHEEP

Item	Column 1 Number of milking goats or sheep	Column 2 Minimum daily washwater production, total litres/day
1.	Fewer than 100	450
2.	100 – 300	570
3.	More than 300 but fewer than 501	680

O. Reg. 338/09, s. 45.

Treatment and disposal methods

61.9 (1) Milking centre washwater that is not stored in accordance with this Part or removed from the farm unit shall be treated or disposed of in accordance with subsection (2), (3), (5), (6), (7) or (8). O. Reg. 338/09, s. 45.

(2) Milking centre washwater may be treated by means of a sediment tank and treatment trench system if the sediment tank and treatment trench system are subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 53 (1) of the *Ontario Water Resources Act*. O. Reg. 338/09, s. 45; O. Reg. 266/11, s. 7 (1).

(3) Subject to subsection (4), milking centre washwater may be treated by means of a sediment tank and treatment trench system if,

(a) in the case of a sediment tank and treatment trench system that were constructed on or after April 6, 1998,

- (i) the washwater has first been treated as described in Sentence 8.1.3.1. (3) of Division B of the Building Code, and
- (ii) a building permit has been issued for the sediment tank and treatment trench system under the *Building Code Act, 1992*, or would have been required but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code;

(b) in the case of a sediment tank and treatment trench system that were constructed before April 6, 1998,

- (i) the washwater has first been treated as described in Sentence 8.1.3.1. (3) of Division B of the Building Code, and
- (ii) no liquid escapes, seeps, leaks or is emitted or discharged from the sediment tank or treatment trench system at any time, except from a part that is intended to discharge liquid. O. Reg. 338/09, s. 45.

(4) Subsection (3) does not apply to the washwater generated from the first rinse through a parlour milking system or pipeline milking system. O. Reg. 338/09, s. 45.

(5) Milking centre washwater may be treated by means of a treatment unit that meets the design criteria specified in Article 8.6.2.2. of Division B of the Building Code. O. Reg. 338/09, s. 45.

(6) Milking centre washwater may be treated by means of a sewage works, other than a sediment tank and treatment trench system, if the sewage works is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 53 (1) of the *Ontario Water Resources Act*. O. Reg. 338/09, s. 45; O. Reg. 266/11, s. 7 (2).

(7) Milking centre washwater may be disposed of in a waste disposal site *that is subject to an environmental compliance approval* issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*. O. Reg. 338/09, s. 45; O. Reg. 266/11, s. 7 (3).

(8) Milking centre washwater may be treated in a regulated mixed anaerobic digestion facility. O. Reg. 338/09, s. 45.

Land application, milking centre washwater and sludge pump-out

61.10 (1) Milking centre washwater may be applied to the land of a farm unit if the application complies with,

- (a) subsections 46 (1), (2) and (3), section 52.4 and subsections 52.5 (2) and (3); and
 - (b) sections 42, 43, 44, 52.1 and 52.6, which apply as if the washwater were liquid NASM. O. Reg. 338/09, s. 45.
- (2) Sludge pump-out may be applied to the land of a farm unit if,
- (a) the application complies with the provisions listed in clause (1) (a);
 - (b) the sludge pump-out is applied,
 - (i) by injection, or
 - (ii) so that the materials applied are incorporated within 24 hours of application; and
 - (c) the application rate does not exceed 34,000 litres per hectare in any 48-hour period. O. Reg. 338/09, s. 45.
- (3) The conditions set out in subsections (1) and (2) apply even if this Regulation does not require the dairy operation to have a nutrient management plan. O. Reg. 338/09, s. 45.

PART VIII SITING, CONSTRUCTION AND STORAGE

GENERAL

Duty of person who owns or controls agricultural operation

62. A person who owns or controls an agricultural operation shall ensure that the requirements of this Part are met in relation to the operation. O. Reg. 338/09, s. 47.

Application of Part

62.1 (1) Subject to subsections (2), (3) and (4), this Part applies to an operation only if this Regulation requires the operation to have a nutrient management strategy, nutrient management plan or NASM plan. O. Reg. 338/09, s. 47.

(2) Except for sections 63 and 81, this Part does not apply to a permanent solid nutrient storage facility that has,

- (a) a volume of less than 600 cubic metres;
- (b) a surface area of less than 600 square metres; and
- (c) walls that do not have an exposed height of more than 1 metre. O. Reg. 338/09, s. 47.

(2.1) Despite subsection (2), this Part applies to a permanent nutrient storage facility that,

- (a) is located on a farm unit on which an agricultural operation treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period; and
- (b) is used to store solid manure as on-farm anaerobic digestion materials received from one or more agricultural operations that are located on a farm unit other than the farm unit where the regulated mixed anaerobic digestion facility is located. O. Reg. 508/21, s. 9.

(2.2) Despite subsection (2), this Part applies to a storage facility that,

- (a) is part of a regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period; and
- (b) is used to store either or both of,
 - (i) off-farm anaerobic digestion materials, or
 - (ii) on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables. O. Reg. 508/21, s. 9.

(3) Sections 81 to 81.4 and 82 to 86 apply with respect to the storage of NASM even if the operation is not required to have a nutrient management strategy, nutrient management plan or NASM plan. O. Reg. 338/09, s. 47.

(4) This Part does not apply to a permanent nutrient storage facility or temporary field nutrient storage site that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*. O. Reg. 338/09, s. 47; O. Reg. 266/11, s. 8.

Facilities for storage of anaerobic digestion materials

62.2 (1) When an operation is required to have a nutrient management strategy because it treats anaerobic digestion materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility,

- (a) every reference in this Part to a permanent nutrient storage facility shall be read as including a reference to a facility for the storage of off-farm anaerobic digestion materials and to an anaerobic digestion vessel that are components of the regulated mixed anaerobic digestion facility;
- (b) every reference in this Part to a permanent nutrient storage facility shall be read as including a reference to a facility for the storage of on-farm materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables that is a component of the regulated mixed anaerobic digestion facility where more than 10,000 cubic metres of off-farm anaerobic digestion materials was received at the farm unit where the regulated mixed anaerobic digestion facility is located in any preceding 12-month period; and
- (c) the provisions of this Part that relate to a permanent liquid nutrient storage facility and a permanent solid nutrient storage facility apply, with necessary modifications, to the facilities described in clauses (a) and (b). O. Reg. 508/21, s. 10.

(2) Despite subsection (1), an anaerobic digestion vessel and any facility for the storage of off-farm or on-farm anaerobic digestion materials is not a permanent nutrient storage facility for the purposes of subsection 69 (1) and subsection 71 (1). O. Reg. 508/21, s. 10.

Facilities subject to approval

62.3 A permanent nutrient storage facility or temporary field nutrient storage site that is used to store NASM and that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*,

- (a) is not a NASM storage facility for the purposes of this Regulation; and
- (b) is not part of a NASM plan area. O. Reg. 266/11, s. 9.

PERMANENT NUTRIENT STORAGE FACILITIES — SITING

Siting

63. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation if the facility is located,

- (a) within 15 metres of a drilled well that has a depth of at least 15 metres and a watertight casing to a depth of at least six metres below ground level;
- (b) within 100 metres of a municipal well;
- (c) within 30 metres of any other well, if the facility is designed to store only agricultural source materials; or
- (d) within 90 metres of any other well, if the facility is designed to store non-agricultural source materials. O. Reg. 267/03, s. 63 (1); O. Reg. 447/03, s. 27 (1).

(1.1) Despite clauses (1) (c) and (d), if an operation is required to have a nutrient management strategy because it treats materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility, no person shall construct or expand a facility for the storage of off-farm anaerobic digestion materials, an anaerobic digestion vessel, or a facility for the storage of on-farm materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables used on a farm unit in the course of the operation, if the facility is located within 90 metres of a well other than a well described in clause (1) (a) or (b). O. Reg. 508/21, s. 11.

(1.2) The reference in subsection (1.1) to a facility for the storage of on-farm materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables applies where more than 10,000 cubic metres of off-farm anaerobic digestion materials was received at the farm unit where the regulated mixed anaerobic digestion facility is located in any preceding 12-month period. O. Reg. 508/21, s. 11.

(2) Subject to subsections (5) and (6), on or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation without,

- (a) determining the location of all field drainage tiles or piped municipal drains within 15 metres of the perimeter of the facility;
- (b) removing all drainage tiles within 15 metres of the perimeter of the facility; and
- (c) redirecting the flow of the field drainage system or piped municipal drain away from the facility. O. Reg. 267/03, s. 63 (2); O. Reg. 447/03, s. 27 (2).

(3) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation if the facility does not have a flow path that is at least 50 metres long to the top of the bank of the nearest surface water or tile inlet. O. Reg. 267/03, s. 63 (3); O. Reg. 447/03, s. 27 (3).

(4) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation within the one in 100 year flood lines established by the municipality or the conservation authority having jurisdiction over the location of the facility if the municipality or the conservation authority has established such flood lines unless a permit for the facility is issued under section 28 of the *Conservation Authorities Act*. O. Reg. 267/03, s. 63 (4); O. Reg. 511/05, s. 35.

(5) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation if the facility permits liquid prescribed materials to enter a tile drainage system. O. Reg. 338/09, s. 48.

(6) Subsection (1), except clause (c), and subsections (2), (3), (4) and (5) also apply, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a permanent NASM storage facility used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 48.

(7) A person who, on or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, constructs or expands, within 15 metres of a permanent nutrient storage facility, a drainage system that is used in the course of the operation and is intended to collect water and divert it away from the facility, shall ensure that at least one of the following conditions is met:

- 1. The system is constructed with non-perforated pipe and all subsurface joints in the piping are properly sealed.
- 2. All water collected by the drainage system discharges into a treatment system.
- 3. The foundation drains of the permanent nutrient storage facility are equipped with an observation and shut-off station. O. Reg. 338/09, s. 48.

(8) Subsection (7) also applies, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands, within 15 metres of a NASM storage facility that is a permanent nutrient storage facility, a drainage system that is used in the course of the operation and is intended to collect water and divert it away from the facility. O. Reg. 338/09, s. 48.

SITE CHARACTERIZATIONS

Who can carry out investigations

64. No person shall carry out a hydrogeologic or geotechnical investigation for the purposes of this Part unless the person is a professional engineer or a professional geoscientist or is working under the supervision of a professional engineer or a professional geoscientist. O. Reg. 267/03, s. 64.

Permanent liquid nutrient storage facility

65. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent liquid nutrient storage facility used on a farm unit in the course of the operation unless the person retains the services of a professional engineer or professional geoscientist to carry out a site characterization study that consists of a stage one hydrogeologic or geotechnical investigation of the site of the proposed facility that identifies the soil types and the presence of any aquifer or bedrock, all to a depth of at least,

- (a) 1.5 metres below the lowest elevation of the excavation required for a structure made of concrete, steel or other materials that a professional engineer determines will provide equivalent protection; or
- (b) 2.5 metres below the lowest elevation of the excavation required for a structure made of earth. O. Reg. 267/03, s. 65 (1); O. Reg. 511/05, s. 36 (1).

(2) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent liquid nutrient storage facility used on a farm unit in the course of the operation for prescribed materials unless the site of the facility meets or exceeds the following requirements:

1. Unlined concrete or steel storage facilities with reinforced concrete floors must have, between the bottom of the storage facility and bedrock or the uppermost identified aquifer, a minimum of 0.5 metres of hydraulically secure soil or 1.0 metres of soil comprised of a clay content of at least 10 per cent.
2. Lined concrete or steel storage facilities with reinforced concrete floors must have a minimum of 0.5 metres of native undisturbed material or compacted granular material between the bottom of the storage facility and bedrock or the uppermost identified aquifer.
3. Unlined concrete or steel storage facilities with unreinforced concrete floors must have, between the bottom of the storage facility and bedrock or the uppermost identified aquifer, a minimum of 1.0 metres of hydraulically secure soil or a minimum of 1.0 metres of soil comprised of a clay content of at least 15 per cent.
4. Lined concrete or steel storage facilities with unreinforced concrete floors must have a minimum of 1.0 metres of native undisturbed material or compacted granular material between the bottom of the storage facility and bedrock or the uppermost identified aquifer.
5. Unlined storage facilities made of earth used to store agricultural source materials, other than manure and materials produced by intermediate generators, must meet the requirements of subsection (3).
6. Lined storage facilities made of earth must have a minimum of 2.0 metres of hydraulically secure soil between the bottom and sides of the lined storage facility and bedrock or the uppermost identified aquifer.
7. Nutrient storage facilities that are designed to incorporate a combined system, such as a facility that has walls made of earth and a concrete floor, must satisfy the most restrictive criteria for the types of material used in the construction of the facility. O. Reg. 267/03, s. 65 (2); O. Reg. 447/03, s. 28 (1-3); O. Reg. 511/05, s. 36 (2-4); O. Reg. 338/09, s. 49 (1-5).

(2.1) Subsection (1), and subsection (2), except paragraph 5, also apply, with necessary modifications, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, to a person who constructs or expands a permanent liquid NASM storage facility used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 49 (6).

(3) A permanent liquid nutrient storage facility that is an unlined facility made of earth can be used to store liquid agricultural source materials, other than manure and materials produced by intermediate generators, if,

- (a) the facility has a maximum storage depth of 3.0 metres and a maximum storage volume of 2,500 cubic metres;
- (b) the facility has at least 2.0 metres of hydraulically secure soil between the bottom and sides of the facility and bedrock or the uppermost identified aquifer;
- (c) the soil materials that form the interior surface of the facility are disked to a depth of at least 150 millimetres and recompacted to meet a hydraulic conductivity of no more than 1×10^{-8} metres per second;
- (d) any soil anomalies that are discovered during construction, such as coarse material lenses, large rocks or soil fractures are excavated and filled with a clay based material to a depth of one metre to the satisfaction of the professional engineer;

- (e) topsoil is 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 facility; and
 - (f) any above ground berms are 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 per cent modified Proctor density according to accepted engineering test criteria. O. Reg. 267/03, s. 65 (3); O. Reg. 447/03, s. 28 (4-6); O. Reg. 511/05, s. 36 (5); O. Reg. 338/09, s. 49 (7).
- (4) No person shall store liquid NASM in an unlined facility made of earth. O. Reg. 338/09, s. 49 (8).

Permanent solid nutrient storage facility

66. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent solid nutrient storage facility described in subsection (2) 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 site of the proposed facility that establishes,

- (a) the fact that there is at least 0.9 metres of soil comprised of a clay content of at least 15 per cent between the bottom of the proposed facility and bedrock or the uppermost identified aquifer; or
 - (b) the fact that there is at least 0.5 metres of hydraulically secure soil between the bottom of the proposed facility and bedrock or the uppermost identified aquifer. O. Reg. 447/03, s. 29; O. Reg. 338/09, s. 50 (1, 2).
- (2) Subsection (1) applies to a permanent solid nutrient storage facility used in the course of the operation on a farm unit where the facility does not have a concrete floor and where,

- (a) the number of farm animals on the farm unit is sufficient to generate 300 or more nutrient units annually; or
- (b) the conditions set out in subsection (3) are met. O. Reg. 338/09, s. 50 (3).

(3) The conditions referred to in clause (2) (b) are:

1. The person who owns or controls the farm unit,
 - i. submits an application, on or after September 30, 2003, for a building permit under the *Building Code Act, 1992* with respect to any building or structure that is used to house farm animals or to store manure and that is located or to be located on the farm unit, or
 - ii. constructs or causes to be constructed any building or structure that is used to house farm animals or to store manure and that is located or to be located on the farm unit, if a building permit in respect of the building or structure would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code.
2. The construction work on the building or structure would increase the capacity of the farm unit to house farm animals to a number that would be sufficient to generate 300 or more nutrient units annually. O. Reg. 338/09, s. 50 (3).

(4) On or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, no person shall construct or expand a permanent solid NASM storage facility that is used on the NASM plan area in the course of the operation unless the facility has a concrete floor. O. Reg. 338/09, s. 50 (4).

Investigations

67. (1) The professional engineer or professional geoscientist responsible for the stage one investigation mentioned in subsection 65 (1) or section 66 shall analyze the data collected for the study to determine the suitability of the site of the proposed facility mentioned in the applicable subsection. O. Reg. 267/03, s. 67 (1).

(2) The stage one investigation shall involve using a minimum of one test hole per 1,000 square metres of the ground floor area of the proposed facility to determine the characteristics of the soil. O. Reg. 267/03, s. 67 (2).

(3) All test holes must be located in the zone that is at least three metres and not greater than 10 metres from the perimeter of the footprint of the proposed facility. O. Reg. 267/03, s. 67 (3).

(4) If the results of the stage one investigation confirm that the site conditions described in subsection 65 (2) or section 66, as the case may be, for the proposed facility exist beneath and adjacent to the site of the proposed facility, the proponent may proceed to construct the proposed facility. O. Reg. 267/03, s. 67 (4); O. Reg. 848/21, s. 4.

(5) If the results of the stage one investigation do not confirm that the site of the proposed facility is suitable for the construction and operation of a permanent liquid nutrient storage facility or a permanent solid nutrient storage facility without a concrete floor, as the case may be, the proponent of the project may,

- (a) evaluate another site;
- (b) in the case of a permanent liquid nutrient storage facility, construct a facility that is suitable for the site in accordance with subsection 65 (2);
- (c) in the case of a permanent solid nutrient storage facility, construct a facility with a concrete floor; or
- (d) carry out a stage two investigation of the site of the proposed facility in accordance with this Part. O. Reg. 267/03, s. 67 (5); O. Reg. 511/05, s. 37.

(6) If the proponent elects to carry out a stage two investigation of the site of the proposed facility, the proponent's professional engineer or professional geoscientist shall develop the terms of reference for the stage two investigation to determine what measures could be used to provide adequate protection for the groundwater and shall submit the terms of reference to a Director. O. Reg. 267/03, s. 67 (6).

(7) The proponent shall not proceed to construct the proposed facility unless,

- (a) the Director who receives the terms of reference for the stage two investigation issues a certificate to the proponent confirming that the terms of reference comply with the requirements of the regulations for the construction of the proposed facility;
- (b) the results of the stage two investigation confirm that the site of the proposed facility is suitable for the facility; and
- (c) the proponent constructs the facility in accordance with the recommendations, if any, contained in the stage two investigation. O. Reg. 267/03, s. 67 (7).

(8) If the results of the stage two investigation do not confirm that the site of the proposed facility is suitable for the facility, the proponent may,

- (a) evaluate another site;
- (b) in the case of a permanent liquid nutrient storage facility, construct a facility that is suitable for the site in accordance with subsection 65 (2);
- (c) in the case of a permanent solid nutrient storage facility, construct a facility with a concrete floor; or
- (d) have a qualified professional develop an appropriate design, specific to the site, that will provide a level of protection for the groundwater that is the equivalent of construction in accordance with subsection 65 (2). O. Reg. 267/03, s. 67 (8).

Sealing test holes

68. The qualified professional supervising the construction or expansion of a permanent nutrient storage facility shall ensure that the test holes that are excavated in the course of the site characterization and that are not required for any further purpose after the site characterization are plugged and sealed to provide a level of hydraulic conductivity that is the same or less than the hydraulic conductivity of the surrounding undisturbed soil. O. Reg. 267/03, s. 68.

STORAGE CAPACITY FOR OPERATIONS

Nutrient storage capacity

69. (1) Subject to subsections (2) to (6), no person shall control a livestock operation, for which this Regulation requires a nutrient management strategy or nutrient management plan and in the course of which manure is generated on a farm unit unless it includes, as part of the farm unit, a permanent nutrient storage facility, a temporary field nutrient storage site or a combination of such facilities and sites that is capable of containing at least all of the nutrients generated or received in the course of the operation during a period of 240 days. O. Reg. 267/03, s. 69 (1).

(2) If a person who owns or controls a livestock operation has a nutrient management strategy for the operation that provides for the use or transfer of some or all of the nutrients generated in the course of the operation by a means that eliminates the need for storing the nutrients on the farm unit for 240 days, the storage capacity of the operation must be at least equal to the storage capacity that the strategy requires. O. Reg. 267/03, s. 69 (2).

(3) If a person owns or controls a livestock operation described in subsection (4), the storage capacity of the operation must be equal to the storage capacity that the nutrient management plan for the operation requires for the operation, if the plan provides for the application to land, on a schedule of times that eliminates the need for storing nutrients on the farm unit for 240 days, of,

- (a) all of the nutrients received in the course of the operation; and
- (b) the nutrients generated in the course of the operation, if the nutrient management strategy for the operation does not provide for their use or disposal. O. Reg. 267/03, s. 69 (3).

(4) Subsection (3) applies to a livestock operation,

- (a) that generates and uses only solid manure; or
- (b) that generates liquid manure and that has not increased the number of farm animals on the farm unit on which the operation is carried out since September 30, 2003. O. Reg. 267/03, s. 69 (4).

(5) If a person who owns or controls the operation described in subsection (1) sends some of the nutrients generated in the course of the operation to a broker, the person and the broker shall, between them, have an aggregate storage capacity of 240 days for that person. O. Reg. 267/03, s. 69 (5).

(6) If the period of use of a permanent livestock confinement area located on the farm unit 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. O. Reg. 267/03, s. 69 (6).

Construction or expansion of buildings

69.1 (1) No person shall construct or expand any building or structure that is used to house farm animals on an agricultural operation carried out on a farm unit, for which this Regulation requires a nutrient management strategy or nutrient management plan, unless it includes, as part of the farm unit a permanent nutrient storage facility, a temporary field nutrient storage site or a combination of such facilities and sites that is capable of containing at least all of the nutrients generated over a period of 240 days by the number of farm animals that the building or structure has the capacity to house. O. Reg. 447/03, s. 30.

(2) If a person constructs or expands a building or structure that is used to house farm animals on an agricultural operation carried out on a farm unit that has a nutrient management strategy and if the strategy provides for the use or transfer of some or all of the nutrients generated by the number of farm animals that the building or structure has the capacity to house by a means that eliminates the need for storing the nutrients on the farm unit for 240 days, the storage capacity of the facility, site or combination that subsection (1) requires for the building or structure must be at least equal to the storage capacity that the strategy requires. O. Reg. 447/03, s. 30.

(3) If a person constructs or expands a building or structure that is used to house farm animals on an agricultural operation described in subsection (4), the storage capacity of the facility, site or combination that subsection (1) requires for the building or structure must be at least equal to the storage capacity that the nutrient management plan for the operation requires for the building or structure if,

- (a) the plan provides for the application to land, on a schedule of times that eliminates the need for storing nutrients on the farm unit for 240 days, of all of the nutrients generated by the number of animals that the building or structure has the capacity to house; and
- (b) the nutrient management strategy for the operation does not provide for their use or disposal. O. Reg. 447/03, s. 30.

(4) Subsection (3) applies to a livestock operation that,

- (a) generates and uses only solid manure; or

(b) generates liquid manure and has not increased the number of farm animals on the farm unit on which the operation is carried out since September 30, 2003. O. Reg. 447/03, s. 30.

(5) If a person constructs or expands a building or structure that is used to house farm animals on an agricultural operation and sends some of the nutrients generated in the course of the operation to a broker, the person and the broker shall, between them, have an aggregate storage capacity of 240 days for all of the nutrients generated by the number of animals that the building or structure has the capacity to house. O. Reg. 447/03, s. 30.

(6) If the period of use of a building or structure that is used to house farm animals is less than 240 days, the storage capacity of the facility, site or combination that subsection (1) requires for the building or structure must be adequate for the number of animals that the building or structure has the capacity to house for the period of confinement. O. Reg. 447/03, s. 30.

70. REVOKED: O. Reg. 338/09, s. 51.

DESIGN AND CONSTRUCTION

Design and construction

71. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent nutrient storage facility used on a farm unit in the course of the operation unless,

- (a) a professional engineer designs the construction or expansion, including any associated monitoring systems, in accordance with the requirements of this Regulation, and signs a commitment certificate prepared in a form and manner specified by a Director by which the engineer undertakes to comply with those requirements;
- (b) the facility is designed to minimize leakage, to minimize corrosion and to be structurally safe and sound;
- (c) the construction or expansion complies with this Part; and
- (d) a professional engineer performs a general review of the construction or expansion to ensure that it complies with this Part. O. Reg. 338/09, s. 52 (1); O. Reg. 508/21, s. 12 (1); O. Reg. 848/21, s. 5 (1).

(1.1) Subsection (1), as remade by subsection 52 (1) of Ontario Regulation 338/09, applies to construction and expansion projects that are completed on or after September 18, 2009. O. Reg. 338/09, s. 52 (1).

(2) On or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, no person shall construct or expand a permanent NASM storage facility that is used on the NASM plan area in the course of the operation unless the conditions set out in clauses (1) (a) to (d) are satisfied. O. Reg. 338/09, s. 52 (2).

(3) No person shall construct or expand a regulated mixed anaerobic digestion facility on a farm unit in the course of an agricultural operation unless,

- (a) a professional engineer,
 - (i) designs the construction or expansion of the facility in accordance with the requirements of this Regulation,
 - (ii) designs the facility to provide for the transfer of materials into a facility for the storage of anaerobic digestion materials and from that storage facility to the anaerobic digestion vessel so that odour emissions are minimized, if materials listed in Schedule 2A or 2B will be treated at the facility,
 - (iii) designs the construction or expansion of the facility to minimize leakage, to minimize corrosion and to be structurally safe and sound,
 - (iv) designs the construction or expansion of the facility to minimize the discharge of noise from it,
 - (v) ensures that the facility is designed to manage non-combusted biogas,
 - (vi) performs a general review of the construction or expansion to ensure that it complies with this Part, and

(vii) signs a commitment certificate prepared in a form and manner specified by a Director by which the engineer undertakes to design the construction or expansion of the facility in accordance with the requirements of this Regulation and to inspect the construction or expansion on completion to ensure that it complies with this Regulation; and

(b) the construction or expansion complies with the professional engineer's design and this Part. O. Reg. 508/21, s. 12 (2); O. Reg. 848/21, s. 5 (2).

(4) REVOKED: O. Reg. 508/21, s. 12 (2).

Concrete quality

72. (1) A person who, on or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, constructs or expands a permanent nutrient storage facility used on a farm unit in the course of the operation and comprised wholly or partially of concrete shall ensure that the concrete used in the facility is appropriate for the environmental conditions encountered on site to maintain the durability and corrosion resistance of the concrete and to protect the reinforcing materials, if any, in the concrete. O. Reg. 267/03, s. 72 (1); O. Reg. 447/03, s. 31; O. Reg. 338/09, s. 53 (1).

(2) The permanent nutrient storage facility must be constructed with a minimum thickness of 125 millimetres of concrete on the floor of the structure unless a professional engineer specifies otherwise. O. Reg. 267/03, s. 72 (2).

(3) Subsections (1) and (2) also apply, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs a permanent NASM storage facility that is used on the NASM plan area in the course of the operation and is comprised wholly or partially of concrete. O. Reg. 338/09, s. 53 (2).

LINERS

Installation of liners

73. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install a liner in a permanent nutrient storage facility used on a farm unit in the course of the operation unless the installation complies with this Part. O. Reg. 511/05, s. 39.

(2) The liner must be continuous under the floor and footings of the facility and must extend up the wall to a level equal with the top of the ground surface, unless the qualified professional supervising the construction of the facility specifies otherwise. O. Reg. 267/03, s. 73 (2).

(3) Subsections (1) and (2) also apply, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, installs a liner in a permanent NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 54.

Synthetic liners

74. (1) If, on or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, a synthetic liner is installed in a permanent nutrient storage facility used on a farm unit in the course of the operation, the liner must be anchored or bonded to the facility, subgrade, or berms made of earth according to good engineering practices or to the manufacturer's specification. O. Reg. 267/03, s. 74 (1); O. Reg. 511/05, s. 40.

(2) If an accessory structure creates a discontinuity in the synthetic liner, the liner must be bonded to the structure in accordance with the manufacturer's recommendation or using a method satisfactory to the professional engineer. O. Reg. 267/03, s. 74 (2).

(3) The qualified professional or other person responsible for supervising the construction of the facility shall,

(a) inspect the synthetic liner before the filling of the construction or the covering of the liner to ensure that there are no damage or perforations within the liner; and

(b) ensure that any damage or perforations discovered during the inspection are repaired according to the engineer's instructions. O. Reg. 267/03, s. 74 (3).

(4) The qualified professional shall inspect any repairs made to the liner to ensure that the integrity of the liner is maintained. O. Reg. 267/03, s. 74 (4).

(5) Subsections (1), (2), (3) and (4) also apply, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, installs a synthetic liner in a permanent NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 55.

Compacted soil liners

75. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install a compacted soil liner in a permanent nutrient storage facility used on a farm unit in the course of the operation if the liner contains materials that have not been excavated from the site of the facility unless a professional engineer has tested the materials to determine their hydraulic conductivity prior to the use of the materials in the compacted soil liner. O. Reg. 267/03, s. 75 (1); O. Reg. 447/03, s. 32.

(2) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install a compacted soil liner in a permanent nutrient storage facility used on a farm unit in the course of the operation unless,

- (a) the minimum thickness of the completed liner is at least 0.9 metres on the sloping inside walls and 0.6 metres on the bottom of the facility;
- (b) the liner on the inside wall of the facility is constructed using at least six layers of a thickness of no more than 150 millimetres;
- (c) the liner on the bottom of the facility is constructed using at least four layers of a thickness of no more than 150 millimetres;
- (d) the interface surface of layers is disked or scarified before placement of subsequent layers of material; and
- (e) each of the layers has been compacted to at least 95 per cent of modified Proctor maximum dry density as determined for the soil at a specified optimum water content. O. Reg. 267/03, s. 75 (2).

(3) Subsections (1) and (2) also apply, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, installs a compacted soil liner in a permanent NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 56.

PERMANENT LIQUID NUTRIENT STORAGE FACILITIES

Secondary containment

76. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent liquid nutrient storage facility used on a farm unit in the course of the operation, where the maximum liquid level is either partially or wholly located above the surface of the soil, unless,

- (a) the load factor, α_L , as defined in clause 4.1.3.1. (1) (c) of Part 4 of the Ontario Regulation 403/97 (Building Code), as it read on December 30, 2006 made under the *Building Code Act, 1992* for liquid loads is 1.5 or another value that a professional engineer is satisfied should be used;
- (b) a professional engineer specifies that the storage and landscape features around the facility are adequate to ensure that a secondary containment system is not required; or
- (c) the above grade portion of the facility has a secondary containment system with a capacity equivalent to 110 per cent of the above ground portion of the facility. O. Reg. 267/03, s. 76; O. Reg. 447/03, s. 33; O. Reg. 338/09, s. 57 (1).

(2) On or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, no person shall construct or expand a permanent liquid NASM storage facility that is used on the NASM plan area in the course of the operation where the maximum liquid level is either partially or wholly located above the surface of the soil, unless the conditions set out in clauses (1) (a) to (c) are satisfied. O. Reg. 338/09, s. 57 (2).

Importance factor for construction

77. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, a person who constructs or expands a permanent liquid nutrient storage facility used on a farm unit in the course of the operation shall use an importance factor of 1.0, where importance factor is defined in Sentence 4.1.3.2. (7) of Part 4 of Ontario Regulation 403/97 (Building Code), as it read on December 30, 2006 made under the *Building Code Act, 1992*. O. Reg. 267/03, s. 77; O. Reg. 338/09, s. 58 (1, 2).

(2) Subsection (1) also applies, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a permanent liquid NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 58 (3).

Ventilation

78. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent liquid nutrient storage facility used on a farm unit in the course of the operation if the facility is covered or otherwise allows gases from agricultural source materials to accumulate or intensify unless a ventilation system has been installed to eliminate corrosive, noxious or explosive gases. O. Reg. 267/03, s. 78 (1); O. Reg. 447/03, s. 34; O. Reg. 338/09, s. 59 (1).

(2) Subsection (1) also applies, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a permanent liquid NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 59 (2).

(3) The ventilation system described in subsection (1) may include natural or powered means of dispersing the gases from liquid prescribed materials. O. Reg. 338/09, s. 59 (2).

Facilities made of earth

79. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent liquid nutrient storage facility made of earth used on a farm unit in the course of the operation unless,

- (a) REVOKED: O. Reg. 848/21, s. 6.
- (b) the facility is designed to have a minimum freeboard of 0.3 metres;
- (c) the slope of the inside wall of the facility is consistent with the requirements of the liner design and pump out equipment and, unless a professional engineer specifies otherwise, is no steeper than 50 per cent; and
- (d) the slope of the outside wall of the facility is consistent with the requirements of the liner design and pump out equipment and, unless a professional engineer specifies otherwise, is no steeper than 33 per cent. O. Reg. 267/03, s. 79; O. Reg. 447/03, s. 35; O. Reg. 511/05, s. 41; O. Reg. 338/09, s. 60 (1); O. Reg. 284/12, s. 7 (2); O. Reg. 848/21, s. 6.

(2) Subsection (1) also applies, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a permanent liquid NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 60 (2).

PERMANENT SOLID NUTRIENT STORAGE FACILITIES**Floors**

80. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a permanent solid nutrient storage facility used on a farm unit in the course of the operation unless it has,

- (a) a concrete floor or another floor that a professional engineer determines will provide equivalent protection to a concrete floor;
- (b) a floor made of earth consisting of at least 0.5 metres of hydraulically secure soil; or

(c) a floor made of earth consisting of at least 0.5 metres of soil of type C or D as defined by the Drainage Guide, in the case of a facility located on a farm unit where the number of farm animals is not sufficient to generate 300 or more nutrient units annually. O. Reg. 267/03, s. 80; O. Reg. 511/05, s. 42; O. Reg. 338/09, s. 61 (1, 2); O. Reg. 284/12, s. 7 (1).

(2) Subsection (1), except clause (c), also applies, with necessary modifications, to a person who, on or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a permanent NASM storage facility that is used on the NASM plan area in the course of the operation. O. Reg. 338/09, s. 61 (3).

(3) Clauses (1) (b) and (c) do not apply with respect to a permanent nutrient storage facility described in subsection 62.1 (2.1) or a storage facility described in subsection 62.1 (2.2). O. Reg. 508/21, s. 13.

Runoff management system

81. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall store nutrients in a permanent solid nutrient storage facility used on the farm unit in the course of the operation unless it is equipped with a runoff management system that handles all of the runoff generated by the facility and that complies with this section. O. Reg. 511/05, s. 43.

(1.1) On or after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, no person shall store NASM in a permanent solid NASM storage facility that is used on the NASM plan area in the course of the operation unless it is equipped with a runoff management system that is capable of managing all the runoff generated by the facility and that complies with this section. O. Reg. 338/09, s. 62 (1).

(2) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall keep farm animals in a farm-animal yard lined with concrete or other paving material of equal or lesser permeability, other than a permanent outdoor confinement area, unless it is equipped with a runoff management system that handles all of the runoff generated by the yard and that complies with this section. O. Reg. 511/05, s. 43.

(3) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall keep farm animals in a permanent outdoor confinement area, unless it is equipped with a runoff management system that handles all of the runoff generated by the area and that complies with this section. O. Reg. 511/05, s. 43.

(4) A runoff management system for a permanent solid nutrient storage facility, a yard described in subsection (2) or a permanent outdoor confinement area must be capable of preventing, collecting, treating or containing runoff and must consist of at least one of the following:

1. In the case of a facility or a yard where up-slope water has been diverted away from the facility or yard, as the case may be, a roof used to prevent entry of precipitation.
2. Vegetated filter strip systems which meet the requirements set out in Part IX.2 or which are exempt from that Part by section 98.15.
3. Runoff collection and storage systems that have the capacity to contain runoff generated by the facility, yard or area, as the case may be, for the storage period required by section 69.
4. Subject to subsection (6), if up-slope water is diverted away from the facility, yard or area, as the case may be, a permanently vegetated area that meets the requirements set out in subsection (5).
5. A sewage works that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 53 (1) of the *Ontario Water Resources Act*.
6. A sewage system regulated under Part 8 of the Building Code. O. Reg. 511/05, s. 43; O. Reg. 394/07, s. 12; O. Reg. 338/09, s. 62 (2); O. Reg. 266/11, s. 10.

(5) The permanently vegetated area mentioned in paragraph 4 of subsection (4) must,

- (a) be located on a minimum 0.5 metres of soil;
- (b) not be located within,

- (i) 3 metres of a field tile drain, 100 metres of a municipal well or 15 metres of a drilled well,
 - (ii) 90 metres of any other well, if the permanently vegetated area is for a permanent solid nutrient storage facility that is used to store non-agricultural source materials, or
 - (iii) 30 metres of any other well, in all other cases;
- (c) if the permanently vegetated area is for a permanent solid nutrient storage facility or a yard described in subsection (2), have a flow path that measures,
- (i) at least 150 metres from surface water and tile inlets, if the facility or yard, as the case may be, handles manure with a dry matter content of 30 per cent or greater as determined in accordance with the Nutrient Management Protocol, or
 - (ii) at least 50 metres from surface water and tile inlets, if the facility or yard, as the case may be, handles manure with a dry matter content of 50 per cent or greater as determined in accordance with the Nutrient Management Protocol; and
- (d) if the permanently vegetated area is for a permanent outdoor confinement area, have a flow path that measures,
- (i) at least 100 metres from surface water and tile inlets, if the confinement area is less than 500 square metres, or
 - (ii) at least 150 metres from surface water and tile inlets, if the confinement area is 500 square metres or more. O. Reg. 511/05, s. 43; O. Reg. 284/12, s. 7 (2).
- (6) Paragraph 4 of subsection (4) does not apply to,
- (a) a permanent solid nutrient storage facility where any flow path associated with the facility has runoff generated by 300 square metres or more of the facility channelled through the flow path;
 - (b) a permanent outdoor confinement area where the number of farm animals kept in the area is sufficient to generate at least 150 nutrient units annually; or
 - (c) a permanent outdoor confinement area where any flow path associated with the area has runoff generated by 2,000 square metres or more of the area channelled through the flow path. O. Reg. 511/05, s. 43.

RULES FOR STORAGE OF NASM

Permitted storage facilities

81.1 No storage of NASM at an agricultural operation is permitted except,

- (a) storage of solid NASM,
 - (i) in a NASM storage facility that is a temporary field nutrient storage site, in accordance with section 83, and
 - (ii) in a temporary field nutrient storage site that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*;
- (b) storage of solid or liquid NASM,
 - (i) in a permanent NASM storage facility, in accordance with section 81.4, and
 - (ii) in a permanent nutrient storage facility that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*; and
- (c) storage of liquid NASM in a portable tank in accordance with section 81.3. O. Reg. 338/09, s. 63; O. Reg. 266/11, s. 11.

Special rules re OC3 NASM

81.2 (1) OC3 NASM that is received at an agricultural operation shall be applied by midnight on the day it is received. O. Reg. 338/09, s. 63.

(2) No person shall store OC3 NASM at an agricultural operation beyond the application deadline set out in subsection (1). O. Reg. 338/09, s. 63.

(3) No person shall store OC3 NASM at an agricultural operation unless,

- (a) the storage facility is located,
 - (i) at least 450 metres from any residential area or commercial, community or institutional use; and
 - (ii) at least 200 metres away from a dwelling; or
 - (b) in the case of solid NASM, it is covered with a rain shedding tarp or waterproof covering. O. Reg. 338/09, s. 63.
- (4) No person shall transfer OC3 NASM to land application equipment at an agricultural operation or to a NASM storage facility,
- (a) within 450 metres of any residential area or commercial, community or institutional use; or
 - (b) within 200 metres of a dwelling. O. Reg. 338/09, s. 63.
- (5) Subsection (4) does not apply,
- (a) in the case of solid NASM, if it is covered with a rain shedding tarp or waterproof covering; or
 - (b) if the transfer takes place inside a closed transfer system. O. Reg. 338/09, s. 63.

Temporary storage of liquid NASM

81.3 Liquid NASM may be stored in a portable tank that is used to supply the material to the field for application, subject to the following rules:

1. The capacity of the tank shall not exceed the quantity of NASM that can be applied to a NASM plan area within one day.
2. Liquid NASM that is received at an agricultural operation shall be applied by midnight on the day it is received.
3. Liquid NASM shall not be stored in the tank beyond the application deadline set out in paragraph 2. O. Reg. 338/09, s. 63.

Storage of NASM in permanent nutrient storage facilities

81.4 (1) NASM may be stored in a permanent nutrient storage facility that was constructed before January 1, 2011 and has not been expanded on or after that date only if,

- (a) the facility is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*; or
- (b) the facility was constructed after June 30, 2003 in accordance with the requirements of this Part. O. Reg. 338/09, s. 63; O. Reg. 266/11, s. 12.

(2) NASM may be stored in a permanent NASM storage facility that was constructed or expanded on or after January 1, 2011 only if it was constructed or expanded in accordance with the requirements of this Part. O. Reg. 338/09, s. 63.

(3) NASM may be stored in a permanent NASM storage facility only if it is to be applied to NASM application areas on the same farm unit as the facility. O. Reg. 338/09, s. 63.

(4) NASM may be stored in a permanent NASM storage facility only if it has the necessary capacity and has the structural integrity required for storing NASM. O. Reg. 338/09, s. 63.

(5) The requirements in subsections (3) and (4) apply in addition to the requirement in subsection (1) or (2), as the case may be. O. Reg. 338/09, s. 63.

(6) A permanent NASM storage facility that is constructed or expanded on or after January 1, 2011 shall be,

- (a) designed by a professional engineer to minimize odour emissions; and
- (b) constructed in accordance with the professional engineer's design specifications. O. Reg. 338/09, s. 63.

TEMPORARY FIELD NUTRIENT STORAGE SITES

No storage of liquid nutrients

82. No person shall store liquid nutrients in a temporary field nutrient storage site. O. Reg. 267/03, s. 82.

Location of sites

83. (1) If nutrients are stored in a temporary field nutrient storage site for a period of longer than 24 hours, the location of the site must satisfy the following requirements:

1. The minimum depth of unconsolidated soil to bedrock, under the site and within 3 metres of the side of the site, must be 0.3 metres.
2. The minimum depth of soil above the water table, under the site and within 3 metres of the side of the site, must be 0.9 metres.
3. Nutrients must not be stored on soils whose hydrologic soil group is A unless the depth of soil is at least 0.9 metres to bedrock.
4. The site must not be located in an area that is subject to flooding once or more every 100 years, according to flood plain mapping provided by a municipality or conservation authority having jurisdiction over the area.
5. The site must not have a slope greater than 3 per cent.
6. There must be a flow path that,
 - i. is at least 50 metres to the nearest surface water or tile inlets, and
 - ii. is located at least 0.3 metres above bedrock. O. Reg. 267/03, s. 83 (1); O. Reg. 447/03, s. 37; O. Reg. 338/09, s. 64 (1).

(1.1) Nothing in subsection (1) shall be construed to require a person who owns or controls an operation at which nutrients are stored in a temporary field nutrient storage site to create flood plain mapping. O. Reg. 511/05, s. 44 (1).

(2) If nutrients are stored in a temporary field nutrient storage site for a period of longer than 24 hours, no person shall locate the site,

- (a) within 45 metres of a drilled well that has a depth of at least 15 metres and a watertight casing to a depth of at least six metres below ground level;
- (b) within 90 metres of any other well, other than a municipal well;
- (c) within 100 metres of a municipal well;
- (d) within 200 metres of a dwelling or within 450 metres of a residential area or commercial, community or institutional use, if the site is used for storing OC2 NASM; or
- (e) within 125 metres of a dwelling or within 250 metres of a residential area or commercial, community or institutional use, if the site is used for storing agricultural source materials or OC1 NASM. O. Reg. 267/03, s. 83 (2); O. Reg. 511/05, s. 44 (2); O. Reg. 338/09, s. 64 (2-4).

Management

84. A temporary field nutrient storage site located on a farm unit must be managed in accordance with the following criteria:

1. A farmer who receives nutrients and stores them in the site cannot 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 the farm unit, based on the nutrient management plan for operations carried out at the farm unit.
2. Non-agricultural source materials stored in the site must be used on the farm unit and cannot be transferred to another farm unit.
3. If more than one type of nutrient is stored in the site, the nutrients must be managed in accordance with the most restrictive requirements applicable to any of the nutrients stored in the site.
4. If the site is located in an area that is tile-drained, there must be a contingency plan in place to deal with contaminated liquid in the tiles.
5. Nutrients must not be stored in the site for longer than the maximum time prescribed for each nutrient.

6. The site may be used again in the following year if a minimum of 75 per cent vegetative cover is re-established on the site following the removal of nutrients from the surface after the site ceases to be in use each year. O. Reg. 267/03, s. 84.

Length of storage

85. (1) Subject to subsection (2), no person shall store prescribed materials in a temporary field nutrient storage site for longer than,

- (a) a maximum of 10 days, in the case of de-watered municipal sewage biosolids;
- (b) the time period determined in accordance with subsection (2), in the case of prescribed materials other than de-watered municipal sewage biosolids.
- (c), (d) REVOKED: O. Reg. 447/03, s. 38 (1).

O. Reg. 267/03, s. 85 (1); O. Reg. 447/03, s. 38 (1); O. Reg. 338/09, s. 65 (1, 2).

(2) The maximum number of days for which prescribed materials, other than de-watered municipal sewage biosolids, may be stored in a temporary field nutrient storage site shall be determined in accordance with the following rules:

1. Determine which nutrient characteristics, management techniques or field conditions set out in Column 1 of the Table to this subsection apply to the site and follow paragraphs 2 and 3 for each one that is applicable.
2. If the number of days in Column 2 of the Table opposite the applicable nutrient characteristic, management technique or field condition set out in Column 1 is positive, add the number to the total number of days for which the site is available for storage.
3. If the number of days in Column 2 of the Table opposite the applicable nutrient characteristic, management technique or field condition set out in Column 1 is negative, subtract the number from the total number of days for which the site is available for storage.
4. The number that results from applying the rules set out in paragraphs 1 to 3 for each nutrient characteristic, management technique or field condition set out in the Table that is applicable to the site is the maximum number of days for which prescribed materials, other than de-watered municipal sewage biosolids, may be stored in the site but that number cannot exceed 300 days.

TABLE

DETERMINING MAXIMUM DAYS FOR STORAGE OF PRESCRIBED MATERIALS IN TEMPORARY FIELD NUTRIENT STORAGE SITE

Item	Column 1 Applicable Nutrient Characteristic, Management Technique or Field Condition	Column 2 Days
1.	Nutrients stored in the site have a dry matter content of 50 per cent or more.	+60
2.	Nutrients stored in the site have a dry matter content of 30 per cent or more, but less than 50 per cent.	+30
3.	The percentage of total nitrogen combined with the percentage of total phosphorus in the materials stored in the site, both on a wet basis, is less than 0.8 per cent.	+60
4.	The percentage of total nitrogen combined with the percentage of total phosphorus in the materials stored in the site, both on a wet basis, is at least 0.8 per cent, but less than 1.6 per cent.	+30
5.	There are field drainage tiles at any depth of the soil surface or bedrock within 0.9 metres of the soil surface, and the tiles or bedrock, as the case may be, are located, (a) under the site; (b) within three metres of the perimeter of the site; or (c) within the first 50 metres of the flow path to surface water.	-60
6.	The site is situated on soil included in hydrologic soil group B, C or D.	+30
7.	The outer edge of the site, at the ground surface, has a perimeter of less than 100 metres.	+30

8.	The site is covered with a rain-shedding tarp that, (a) has been anchored against wind removal; (b) has been placed on the site on the same day on which the first materials were placed on the site; and (c) remains in place for the entire storage period.	+120
9.	The site has a flow path to the nearest surface water or water inlet for field tile drainage of 150 metres or more.	+30
10.	The site is situated on the same location, or within 125 metres of the same location, not more than once every three years.	+60
11.	The site is not situated on the same location, or within 125 metres of the same location, more often than once every three years and the materials stored on the site are removed from the site and applied to land during the period between August 15 and October 15 in any one year.	+60
12.	The pile of materials stored on the site, (a) has a dry matter content of between 25 and 60 per cent; (b) has a ratio of carbon to nitrogen of between 20:1 and 40:1; and (c) is turned so that every piece of material in the pile is displaced from its former position and mixed or inverted once weekly for the first three weeks, and once monthly after that.	+120

O. Reg. 328/17, s. 2.

Records

86. The operator shall maintain records for all temporary field nutrient storage sites under the operator's control that include,

- (a) the date on which the site was established;
- (b) the dates on which the pile of materials was displaced and mixed or inverted, if applicable;
- (c) the date on which the materials were removed from the site;
- (d) a sketch indicating the location of the site relative to setback distances, surface waters and other temporary field nutrient storage sites; and
- (e) a record of the management techniques and field conditions set out in Column 2 of the Table to subsection 85 (2). O. Reg. 267/03, s. 86; O. Reg. 447/03, s. 39.

LIQUID NUTRIENT TRANSFER SYSTEMS**Design and construction**

87. (1) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct or expand a liquid nutrient transfer system in the course of the operation, other than a floor transfer system defined in section 88, unless,

- (a) the system is designed and constructed or expanded in accordance with this Part;
- (b) a professional engineer designs the construction or expansion; and
- (c) a professional engineer performs a general review of the construction or expansion to ensure that it complies with this Part. O. Reg. 338/09, s. 66 (1).

(1.1) Subsection (1) also applies, with necessary modifications, to a person who, on and after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, constructs or expands a liquid nutrient transfer system on the NASM plan area for the purpose of transferring liquid NASM in the course of the operation. O. Reg. 338/09, s. 66 (2).

(2) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install pipe connections in a liquid nutrient transfer system used in the course of the operation unless they are installed using specifically designed gasketed fittings, such as tees, saddles, end caps and elbows, that are compatible with the pipe material. O. Reg. 267/03, s. 87 (2).

(2.1) Subsection (2) also applies, with necessary modifications, to a person who, on and after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, installs pipe connections in a liquid nutrient transfer system on the NASM plan area for the purpose of transferring liquid NASM in the course of the operation. O. Reg. 338/09, s. 66 (3).

(3) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install a liquid nutrient transfer system used in the course of the operation with the pipe entering the permanent liquid nutrient storage facility unless a flexible watertight gasket or membrane has been installed between the pipe and the floor or wall of the storage tank to serve as an anti-seepage collar. O. Reg. 267/03, s. 87 (3); O. Reg. 848/21, s. 7.

(4) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall install a liquid nutrient transfer system used in the course of the operation where the elevation of the facility is higher than the elevation of the transfer system and where there is an opportunity for backflow to the pump or pump-out chamber unless the transfer system has a primary shut-off valve and secondary shut-off valve. O. Reg. 267/03, s. 87 (4); O. Reg. 447/03, s. 40 (2).

(5) Subsections (3) and (4) also apply, with necessary modifications, to a person who, on and after the day on which this Regulation requires an operation to have a NASM plan for a NASM plan area, installs a liquid nutrient transfer system on the NASM plan area for the purpose of transferring liquid NASM in the course of the operation. O. Reg. 338/09, s. 66 (4).

Floor transfer systems

88. (1) In this section,

“floor transfer system” means a system where a floor is used to transfer liquid manure, but does not include,

- (a) areas within a barn that are designed to house livestock and that are not intended to collect liquid manure,
- (b) areas under dairy free-stalls,
- (c) feed trough areas,
- (d) floors under solid manure pack areas. O. Reg. 267/03, s. 88 (1).

(2) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall use a floor to transfer liquid manure in the course of the operation unless the floor is part of a floor transfer system that complies with this section. O. Reg. 267/03, s. 88 (2).

(3) On or after the day on which this Regulation requires an operation to have a nutrient management strategy or nutrient management plan, no person shall construct a floor transfer system used in the course of the operation unless the system complies with this section. O. Reg. 267/03, s. 88 (3).

(4) A floor transfer system must have a floor constructed of concrete and must be capable of containing the anticipated volume of liquids that are generated on the farm unit on which the system is located and transferring the liquids directly to a permanent liquid nutrient storage facility. O. Reg. 267/03, s. 88 (4).

PART IX SAMPLING, ANALYSIS AND QUALITY STANDARDS AND LAND APPLICATION RATES

GENERAL

89. REVOKED: O. Reg. 338/09, s. 67.

Calculation procedures

90. (1) REVOKED: O. Reg. 511/05, s. 47 (1).

(2) For the purposes of making a calculation under this Part or Part IX.1 in relation to a sample, a person shall use the actual analytical results obtained by the person who does an analysis of the sample under this Part or Part IX.1. O. Reg. 394/07, s. 13 (1).

(3) If this Part or Part IX.1 requires an arithmetic average or geometric mean of concentrations to be determined, the most recently determined arithmetic average or geometric mean, as the case may be, shall be used. O. Reg. 267/03, s. 90 (3); O. Reg. 394/07, s. 13 (2).

MANURE AND ANAEROBIC DIGESTION OUTPUT

Sampling obligations

91. (1) Each person who is required to have a nutrient management plan for an agricultural operation, in the course of which manure or anaerobic digestion output that falls within the definition of agricultural source material is applied to land, that is the first such plan for the operation, shall, as part of preparing the plan,

(a) collect at least one sample from the soil of the land or, if the plan deals with land in parts under subsection 24 (3), from each part of the land and have the sample analyzed in accordance with subsection (4) to determine the concentration of each of the following parameters: plant available phosphorus, plant available potassium; or

(b) for the purpose of subsection 92 (1), use the following concentrations to calculate the maximum application rate to land:

(i) 101 milligrams per litre of plant available phosphorus in the soil of the land.

(ii) 251 milligrams per litre of plant available potassium in the soil of the land. O. Reg. 511/05, s. 48; O. Reg. 394/07, s. 15 (1); O. Reg. 338/09, s. 68 (1-3).

(2) Each person who is required to have a nutrient management plan for an agricultural operation, in the course of which manure or anaerobic digestion output that falls within the definition of agricultural source material is applied to land, that is not the first such plan for the operation, shall, as part of preparing the plan, collect at least one sample from the soil of the land or, if the plan deals with land in parts under subsection 24 (3), from each part of the land and have the sample analyzed in accordance with subsection (4) to determine the concentration of each of the following parameters: plant available phosphorus and plant available potassium. O. Reg. 511/05, s. 48; O. Reg. 394/07, s. 15 (2); O. Reg. 338/09, s. 68 (4).

(3) Each person who is required to have a nutrient management plan for an agricultural operation, in the course of which manure or anaerobic digestion output that falls within the definition of agricultural source material is applied to land, shall, as part of preparing the plan,

(a) collect at least one sample of each type of the manure or anaerobic digestion output applied to the land and have the sample analyzed in accordance with subsection (4) to determine the concentration of each of the following parameters: ammonia and ammonium nitrogen, total Kjeldahl nitrogen, total phosphorus, total potassium and total solids; or

(b) obtain the default data from the Nutrient Management Protocol in relation to each parameter listed in clause (a). O. Reg. 511/05, s. 48; O. Reg. 394/07, s. 15 (3, 4); O. Reg. 338/09, s. 68 (5); O. Reg. 284/12, s. 7 (2).

(4) The analysis mentioned in subsection (1) or (2) shall be performed by a laboratory that is accredited by the Ministry of Agriculture, Food and Rural Affairs for that purpose. O. Reg. 394/07, s. 15 (5).

(5) The analysis mentioned in subsection (3) shall be performed by,

(a) a laboratory that is accredited by the Ministry of Agriculture, Food and Rural Affairs for that purpose; or

(b) a laboratory that is accredited in accordance with the International Standard ISO/IEC 17025 — General Requirement for the Competence of Testing and Calibration Laboratories, dated December 15, 1999, as amended from time to time. O. Reg. 394/07, s. 15 (5).

Maximum application rate

92. (1) Each person who is required to collect samples and have them analyzed under section 91 shall calculate the maximum application rate to land for the manure or the anaerobic digestion output in the sample, using the most recently determined concentration under the applicable subsection or the concentrations set out in clause 91 (1) (b), if applicable. O. Reg. 394/07, s. 16 (1).

(2) The maximum application rate to land for the manure or the anaerobic digestion output in the sample must be such that the total plant available phosphate in the nutrients that are applied to land per hectare during any consecutive five-year period does not exceed the greater of,

- (a) the crop production requirements per hectare for that five-year period plus 85 kilograms of phosphate per hectare; and
- (b) the phosphate removed from the land per hectare in the harvested portion of the crop during that five-year period plus 390 kilograms of phosphate per hectare. O. Reg. 338/09, s. 69.

(3) The person shall enter the rate into the nutrient management plan. O. Reg. 267/03, s. 92 (3).

(4) A nutrient management plan does not come into force until the person who is required to comply with section 91 and this section has complied with those sections. O. Reg. 267/03, s. 92 (4).

(5) No person shall apply manure or anaerobic digestion output to land at a rate that exceeds the maximum application rate to land for the manure or anaerobic digestion output. O. Reg. 394/07, s. 16 (3).

NON-AGRICULTURAL SOURCE MATERIALS — SAMPLING AND ANALYSIS

Sampling and analysis procedures

93. (1) Each person who is required under section 94 or 95 to collect a sample shall do so in accordance with this Part and the methods specified in the Sampling and Analysis Protocol. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2).

(2) Each person who is required under section 94 or 95 to have a sample analyzed shall have the analysis done in accordance with this Part and the methods specified in the Sampling and Analysis Protocol. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2).

(3) Whenever this Part requires a person to collect a sample or to have it analyzed, the sample shall be a composite sample. O. Reg. 338/09, s. 70.

(4) Subsections (1) to (3) apply, with necessary modifications, to testing required by a Director under section 98.0.16. O. Reg. 338/09, s. 70.

Soil testing

94. (1) Each person who is required to have a nutrient management plan or NASM plan for an agricultural operation in the course of which Category 2 or Category 3 NASM is applied to land shall, as part of preparing the plan, collect at least one sample from the soil of the land and have the sample analyzed to determine the concentration of each of the following parameters:

1. Plant available phosphorus.
2. Plant available potassium.
3. Regulated metals.
4. Soil pH. O. Reg. 338/09, s. 70.

(2) In the case of the analysis for each regulated metal, the analysis must report the concentration of each regulated metal in the sample in milligrams of metal per kilogram of total solids, calculated on a dry weight basis. O. Reg. 338/09, s. 70.

(3) A nutrient management plan or NASM plan does not come into force until the person who is required to comply with subsections (1) and (2) has done so. O. Reg. 338/09, s. 70.

(4) If the most recent sample collected and analyzed under subsection (1) as part of preparing the nutrient management plan or NASM plan, or under this subsection, was collected more than five years before the date on which it is proposed to apply Category 2 or Category 3 NASM to the land, the person who is required to comply with subsections (1) and (2) shall ensure that a fresh sample is collected and analyzed in accordance with those subsections. O. Reg. 338/09, s. 70.

(5) This Regulation does not require soil testing before Category 1 NASM is applied to land, except as set out in subsection (6). O. Reg. 338/09, s. 70.

(6) Subsections (1), (2) and (4) apply, with necessary modifications, to a person who proposes to apply more than 20 tonnes of Category 1 NASM per hectare of land, during a calendar year, in the course of an agricultural operation. O. Reg. 338/09, s. 70.

94.1 REVOKED: O. Reg. 338/09, s. 70.

NASM testing

95. Each generator who generates non-agricultural source materials that are intended to be applied to land in the course of an agricultural operation shall, on or before the transfer date,

- (a) carry out sampling in accordance with section 97, 98, 98.0.1, 98.0.2, 98.0.3, 98.0.4 or 98.0.5, as the case may be; and
- (b) have the samples analyzed as the relevant section requires. O. Reg. 338/09, s. 70.

Prohibition

96. (1) This section applies with respect to a person who is required to have a nutrient management plan or NASM plan for an agricultural operation in the course of which non-agricultural source materials are applied to land. O. Reg. 338/09, s. 70.

(2) If one of the conditions set out in subsection (3) is satisfied, the person shall not receive non-agricultural source materials on the farm unit on which an agricultural operation is carried out unless the person also receives the results of any analysis required by section 97, 98, 98.0.1, 98.0.2, 98.0.3, 98.0.4 or 98.0.5, or under section 98.0.16, as the case may be. O. Reg. 338/09, s. 70.

(3) The conditions mentioned in subsection (2) are:

- 1. The person is receiving materials generated by that particular generator for the first time since January 1, 2011.
- 2. More than 1 month has passed since the last time the person received the results of any analysis described in subsection (2) from that generator. O. Reg. 338/09, s. 70.

(4) The generator shall ensure that, when the person receives non-agricultural source materials from the generator, the person also receives the results of any analysis described in subsection (2). O. Reg. 338/09, s. 70.

Category 1 NASM

97. (1) This Regulation does not require testing of Category 1 NASM, except as set out in subsection (2). O. Reg. 338/09, s. 70.

(2) Section 98 applies, with necessary modifications, if Category 1 NASM is to be applied to land at a rate of more than 20 tonnes per hectare of land during a calendar year. O. Reg. 338/09, s. 70.

Category 2 NASM

98. (1) This section applies to Category 2 NASM. O. Reg. 338/09, s. 70.

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

- 1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
- 2. The samples shall be analyzed for the following parameters:
 - i. Total solids.
 - ii. Total Kjeldahl nitrogen.
 - iii. Ammonia and ammonium nitrogen.
 - iv. Nitrate and nitrite nitrogen.
 - v. Total phosphorus.

vi. All regulated metals.

vii. Any additional parameters listed in Column 2 of Table 2 of Schedule 4.

3. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

(3) NASM to which this section applies is assumed to be CP1; no sampling or analysis for pathogens is required. O. Reg. 338/09, s. 70.

Category 3 NASM, except sewage biosolids and other material containing human body waste

98.0.1 (1) This section applies to Category 3 NASM, except sewage biosolids and other material containing human body waste. O. Reg. 338/09, s. 70.

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. The samples shall be analyzed for the following parameters:
 - i. The parameters listed in subparagraphs 2 i to vi of subsection 98 (2).
 - ii. Any additional parameters listed in Column 2 of Table 3 of Schedule 4.

3. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

(3) NASM to which this section applies is assumed to be CP2; sampling and analysis are required only if the generator wishes to determine pathogen levels in order to confirm that the material is CP1. O. Reg. 338/09, s. 70.

(4) If NASM to which this section applies is sampled and analyzed to determine pathogen levels, the following rules apply:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. The samples shall be analyzed for the pathogens listed in Items 1, 2, 3 and 4 of Column 1 of Table 1 of Schedule 6, subject to paragraph 4.
3. If the NASM is generated at a site operating under an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act* or subsection 53 (1) of the *Ontario Water Resources Act*, the samples do not need to be analyzed for the pathogens listed in Items 3 and 4 of Column 1 of Table 1 of Schedule 6.
4. The level of each pathogen shall be calculated as the geometric mean of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70; O. Reg. 266/11, s. 13.

Sewage biosolids from large treatment works

98.0.2 (1) This section applies to sewage biosolids from municipal sewage treatment works with an approved design capacity of more than 45,400 cubic metres, but only if,

- (a) the sewage biosolids are not stored or treated in a lagoon; and
- (b) the generator ships them directly to an agricultural operation for land application. O. Reg. 338/09, s. 70.

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

1. Four samples shall be taken during the two-month period before the transfer date. At least two of them shall be taken during the one-month period before the transfer date.
2. The samples shall be analyzed for the parameters listed in subparagraphs 2 i to vi of subsection 98 (2).
3. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

(3) The following rules apply to sampling and analysis to determine pathogen levels:

1. Four samples shall be taken during the two-month period before the transfer date. At least two of them shall be taken during the one-month period before the transfer date.
2. If the generator wishes to confirm that the material is CP2, the samples need to be analyzed only for E. coli.
3. If the generator wishes to confirm that the NASM is CP1, the samples shall be analyzed for the pathogens listed in Column 1 of Table 2 of Schedule 6.
4. The level of each pathogen shall be calculated as the geometric mean of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

Sewage biosolids from small treatment works

98.0.3 (1) This section applies to sewage biosolids from municipal sewage treatment works with an approved design capacity of 45,400 cubic metres or less, but only if,

- (a) the sewage biosolids are not stored or treated in a lagoon; and
- (b) the generator ships them directly to an agricultural operation for land application. O. Reg. 338/09, s. 70.

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. The samples shall be analyzed for the parameters listed in subparagraphs 2 i to vi of subsection 98 (2).
3. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

(3) The following rules apply to sampling and analysis to determine pathogen levels:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. If the generator wishes to confirm that the NASM is CP2, the samples need to be analyzed only for E. coli.
3. If the generator wishes to confirm that the NASM is CP1, the samples shall be analyzed for the pathogens listed in Column 1 of Table 2 of Schedule 6.
4. The level of each pathogen shall be calculated as the geometric mean of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

Sewage biosolids from lagoons

98.0.4 (1) This section applies to sewage biosolids from municipal sewage lagoons, but only if the generator ships the NASM directly to an agricultural operation for land application. O. Reg. 338/09, s. 70.

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

1. Four samples shall be taken during the four-month period before the transfer date.

2. If the lagoon has more than one cell, all samples must be taken from the cell from which the NASM is to be obtained.
3. The samples shall be analyzed for the parameters listed in subparagraphs 2 i to vi of subsection 98 (2).
4. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. O. Reg. 338/09, s. 70.

(3) The following rules apply to sampling and analysis to determine pathogen levels:

1. Four samples shall be taken during the four-month period before the transfer date.
2. If the lagoon has more than one cell, all samples must be taken from the cell from which the NASM is to be obtained.
3. If the generator wishes to confirm that the NASM is CP2, the samples need to be analyzed only for E. coli.
4. If the generator wishes to confirm that the NASM is CP1, the samples shall be analyzed for the pathogens listed in Column 1 of Table 2 of Schedule 6.
5. The level of each pathogen shall be calculated as the geometric mean of the results from all samples taken during the four-month period before the transfer date. O. Reg. 338/09, s. 70.

Other sewage biosolids and materials containing human body waste

98.0.5 (1) This section applies to the following:

1. Sewage biosolids that come from any source not described in sections 98.0.2, 98.0.3 and 98.0.4.
2. Sewage biosolids that come from a source described in section 98.0.2, 98.0.3 or 98.0.4 but are not shipped directly to an agricultural operation for land application.
3. Other materials containing human body waste, other than untreated septage.
4. Other materials that result from the processing of materials that include sewage biosolids or human body waste. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 4 (1).

(2) The following rules apply to sampling and analysis to determine nutrient and metal content:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. The samples shall be analyzed for the parameters listed in subparagraphs 2 i to vi of subsection 98 (2).
3. The concentration of each parameter shall be calculated as the average of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70.

(3) The following rules apply to sampling and analysis to determine pathogen levels:

1. Two samples shall be taken during the two-month period before the transfer date. At least one of them shall be taken during the one-month period before the transfer date.
2. If the generator wishes to confirm that the material is CP2, the samples need to be analyzed only for E. coli.
3. If the generator wishes to confirm that the NASM is CP1, the samples shall be analyzed for the pathogens listed in Column 1 of Table 2 of Schedule 6.
- 3.1 The samples do not need to be analyzed for the pathogens listed in Items 3 and 4 of Column 1 of Table 2 of Schedule 6 if the material is NASM listed in Item 11.1 of Column 1 of Table 3 of Schedule 4.
4. The level of each pathogen shall be calculated as the geometric mean of the results from all samples taken during the four-month period before the transfer date. The results from the samples mentioned in paragraph 1 may be excluded from the calculation if, on the transfer date, the generator has not yet received those results. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 4 (2).

NON-AGRICULTURAL SOURCE MATERIALS — LAND APPLICATION RULES

General prohibition, requirement of benefit

98.0.6 (1) Despite anything else in this Regulation, no person shall apply NASM to land unless at least one of the following conditions is satisfied:

1. In the case of solid or liquid NASM, the amount of total organic matter is more than 15 per cent of the total weight of the NASM.
2. In the case of solid or liquid NASM, the NASM is used to increase the soil pH value.
3. In the case of solid NASM, the total concentration of plant available nitrogen, plant available phosphate and plant available potassium, determined in accordance with the Nutrient Management Protocol, is more than 13,000 milligrams per kilogram of NASM, calculated on a dry weight basis.
4. In the case of liquid NASM, the total concentration of plant available nitrogen, plant available phosphate and plant available potassium, determined in accordance with the Nutrient Management Protocol, is more than 140 milligrams per litre of NASM.
5. In the case of liquid NASM, the condition set out in paragraph 4 is not satisfied but the liquid NASM is an aqueous solution or suspension containing more than 99 per cent water by weight and is used to irrigate crops during the period that begins on June 15 and ends on September 30 of the same year. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2); O. Reg. 848/21, s. 8.

(2) In paragraph 1 of subsection (1),

“total organic matter” means the quantity of material lost on ignition, according to section 4.3.3 of the Sampling and Analysis Protocol, expressed as a percentage of the initial dry weight of the sample. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2).

Calculation of maximum application rates

98.0.7 (1) This section and sections 98.0.8 to 98.0.16 apply when a person who is required to collect soil samples and have them analyzed under section 94 intends to apply NASM to land in the course of the agricultural operation. O. Reg. 338/09, s. 70.

(2) The person shall calculate the maximum application rate or rates for the specific NASM that is intended to be applied to the land, in accordance with the Nutrient Management Protocol, using the concentrations most recently determined,

- (a) under section 94, for the soil; and
- (b) under section 95, for the NASM. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2).

Maximum application rate, PAN

98.0.8 (1) The maximum application rate to land for NASM with reference to plant available nitrogen is a rate such that the plant available nitrogen in the NASM that is applied to the land per hectare, for any 12-month period, does not exceed the lesser of,

- (a) the quantity determined under subsection (2); and
- (b) 200 kilograms per hectare. O. Reg. 338/09, s. 70.

(2) The quantity for the purposes of clause (1) (a) is the greater of,

- (a) the crop production requirements for nitrogen, minus plant available nitrogen supplied by other nutrient sources; and
- (b) the quantity of nitrogen removed from the field in the harvested portion of the crop, minus plant available nitrogen supplied by other nutrient sources. O. Reg. 338/09, s. 70.

(3) For the purposes of this section, the plant available nitrogen in the NASM that is applied to land shall be calculated in accordance with the formula for plant available nitrogen in the Nutrient Management Protocol. O. Reg. 338/09, s. 70; O. Reg. 284/12, s. 7 (2); O. Reg. 848/21, s. 9.

Maximum application rate, PAP

98.0.9 The maximum application rate to land for NASM with reference to plant available phosphate is a rate such that the total plant available phosphate in the nutrients that are applied to the land per hectare during any five-year period does not exceed the amount of phosphate removed from the land per hectare in the harvested portion of the crop during that period plus 390 kilograms of phosphate per hectare. O. Reg. 338/09, s. 70.

Maximum application rates, Category 1 NASM

98.0.10 The person who owns or controls the farm unit on which an agricultural operation is carried out shall comply with one of the following maximum application rates for Category 1 NASM:

1. 20 tonnes of NASM per hectare, calculated on a wet weight basis, in any 12-month period.
2. The lesser of the rates determined under sections 98.0.8 and 98.0.9. O. Reg. 338/09, s. 70.

Maximum application rates, Category 2 and 3 NASM, PAN and PAP

98.0.11 The maximum application rates to land for Category 2 and Category 3 NASM with reference to plant available nitrogen and plant available phosphate are the rates determined under sections 98.0.8 and 98.0.9. O. Reg. 338/09, s. 70.

Maximum application rate, Category 2 and 3 NASM, regulated metals

98.0.12 (1) The maximum application rate to land for Category 2 and Category 3 NASM with reference to regulated metals is a rate such that none of the amounts set out in Column 2 of the Table to this section are exceeded in any five-year period. O. Reg. 338/09, s. 70.

(2) No person shall apply Category 2 or Category 3 NASM that is CM2 to land whose soil exceeds the concentration of any regulated metal set out in Column 3 of the Table to this section, unless the application is contemplated in a NASM plan that has been approved under section 28. O. Reg. 338/09, s. 70.

(3) A Director may approve a NASM plan that contemplates an application described in subsection (2) if the Director is satisfied that the application will not result in a measurable increase in the concentration of any regulated metal in the soil. O. Reg. 338/09, s. 70.

TABLE — MAXIMUM APPLICATION RATES, REGULATED METALS

Item	Column 1 — Regulated metal	Column 2 — Maximum addition to soil (in kilograms of regulated metal per hectare/per five years)	Column 3 — Maximum concentration in soil (in milligrams per kilogram of soil, dry weight)
1.	Arsenic	1.4	14
2.	Cadmium	0.27	1.6
3.	Cobalt	2.7	20
4.	Chromium	23.3	120
5.	Copper	13.6	100
6.	Lead	9	60
7.	Mercury	0.09	0.5
8.	Molybdenum	0.8	4
9.	Nickel	3.56	32
10.	Selenium	0.27	1.6
11.	Zinc	33	220

O. Reg. 338/09, s. 70.

Maximum application rate, Category 2 and 3 NASM, sodium

98.0.13 (1) This section applies with respect to Category 2 and Category 3 NASM of the types listed in Column 1 of Items 5 and 6 of Table 2 of Schedule 4 and Column 1 of Items 1, 4 and 5 of Table 3 of Schedule 4. O. Reg. 338/09, s. 70.

(2) This section also applies with respect to Category 2 or Category 3 NASM of a type not described in subsection (1) if a Director requires testing for sodium in accordance with subsection 98.0.16 (3). O. Reg. 338/09, s. 70.

(3) The maximum application rate to land for the materials with reference to sodium is a rate such that the amount set out in Column 2 of the Table to this section opposite the hydrologic soil group to which the land belongs, set out in Column 1 of the Table, is not exceeded in any 12-month period. O. Reg. 338/09, s. 70.

TABLE — MAXIMUM APPLICATION RATES, SODIUM

Item	Column 1 — Hydrologic soil group	Column 2 — Maximum addition to soil (in kilograms of sodium per hectare/year)
1.	A	200
2.	B	200
3.	C	500
4.	D	500

O. Reg. 338/09, s. 70.

Maximum application rate, Category 2 and 3 NASM, FOG

98.0.14 (1) This section applies with respect to Category 3 NASM of the types listed in Column 1 of Items 1, 4, 5, 7 and 9 of Table 3 of Schedule 4. O. Reg. 338/09, s. 70.

(2) This section also applies with respect to Category 2 NASM or to Category 3 NASM of a type not described in subsection (1) if a Director requires testing for fats, oils and grease in accordance with subsection 98.0.16 (3). O. Reg. 338/09, s. 70.

(3) The maximum application rate to land for the materials with reference to fats, oils and grease is a rate such that the amount set out in Column 2 of the Table to this section opposite the hydrologic soil group to which the land belongs, set out in Column 1 of the Table, is not exceeded in any 12-month period. O. Reg. 338/09, s. 70.

TABLE — MAXIMUM APPLICATION RATES, FOG (FATS, OILS AND GREASE)

Item	Column 1 — Hydrologic soil group	Column 2 — Maximum addition to soil (in kilograms of fats, oils and grease per hectare/year)
1.	A	5,000
2.	B	5,000
3.	C	2,500
4.	D	2,500

O. Reg. 338/09, s. 70.

Maximum application rate, Category 2 and 3 NASM, boron

98.0.15 (1) This section applies with respect to Category 3 NASM of the type listed in Column 1 of Item 10 of Table 3 of Schedule 4. O. Reg. 338/09, s. 70.

(2) This section also applies with respect to Category 2 NASM or to Category 3 NASM of a type not described in subsection (1) if a Director requires testing for boron in accordance with subsection 98.0.16 (3). O. Reg. 338/09, s. 70.

(3) The maximum application rate to land for the materials with reference to boron is a rate such that the amount of boron added to the soil in any 12-month period does not exceed one kilogram of boron per hectare. O. Reg. 338/09, s. 70.

Director's decision, additional requirements

98.0.16 (1) This section applies with respect to Category 2 and Category 3 NASM. O. Reg. 338/09, s. 70.

(2) When dealing with a NASM plan under section 28 or 31.1, a Director may act under subsection (3) or under subsections (4) and (5) if he or she considers it necessary to do so in order to,

- (a) prevent, decrease or eliminate an adverse effect; or
- (b) prevent NASM from being managed in a way that is not in accordance with the standards established in this Regulation for OC1, OC2 and OC3 NASM. O. Reg. 338/09, s. 70.

(3) The Director may require testing,

- (a) for sodium, as described in subsection 98.0.13 (2);
- (b) for fats, oils and grease, as described in subsection 98.0.14 (2);
- (c) for boron, as described in subsection 98.0.15 (2). O. Reg. 338/09, s. 70.

(4) The Director may require testing for any substance not mentioned in section 98.0.12, 98.0.13, 98.0.14 or 98.0.15. O. Reg. 338/09, s. 70.

(5) If the Director requires testing under subsection (4), he or she shall also determine,

- (a) rules for sampling and analysis with reference to the substance; and
- (b) the maximum application rate for the substance, or a method for calculating the maximum application rate for NASM with reference to the substance. O. Reg. 338/09, s. 70.

Prohibitions

98.0.17 (1) No person shall apply Category 2 or Category 3 NASM to land at a rate that exceeds the applicable maximum application rate determined under section 98.0.8, 98.0.9, 98.0.10, 98.0.11, 98.0.12, 98.0.13, 98.0.14, 98.0.15 or 98.0.16. O. Reg. 338/09, s. 70.

(2) No person shall apply Category 2 or Category 3 NASM to land if the concentration for plant available phosphorus in the soil of the land, as determined under sections 93 and 94, exceeds 60 milligrams per litre of soil, unless the application is contemplated in a NASM plan that has been approved under section 28. O. Reg. 338/09, s. 70.

(3) No person shall apply Category 2 or Category 3 NASM that is CM2 to land if the existing soil pH value is less than six, unless the application is contemplated in a NASM plan that has been approved under section 28. O. Reg. 338/09, s. 70.

(4) No person shall apply Category 2 or Category 3 NASM to organic soils unless the application is contemplated in a NASM plan that has been approved under section 28. O. Reg. 338/09, s. 70.

(5) No person shall apply Category 2 or Category 3 NASM to the land of an established golf course. O. Reg. 338/09, s. 70.

(6) No person shall apply NASM to which this subsection applies to land at a rate that exceeds 22 tonnes of the NASM per hectare, calculated on a dry weight basis, in any five-year period. O. Reg. 284/12, s. 5.

(7) Subsection (6) applies to NASM that is,

- (a) sewage biosolids;
- (b) other materials containing human body waste; or
- (c) other materials that result from the processing of materials that include sewage biosolids or human body waste. O. Reg. 284/12, s. 5.

PART IX.1 ANAEROBIC DIGESTION

GENERAL

Application to mixed materials

98.1 (1) For the purposes of this Part, if materials listed in Schedule 1, 2A, 2B or 3 are mixed the resulting material shall be treated for all purposes as a material in the Schedule with the highest number. O. Reg. 508/21, s. 14.

(2) For the purposes of subsection (1), Schedule 2B shall be considered to be a higher number than Schedule 2A. O. Reg. 508/21, s. 14.

(3) A reference in this Part to "Schedule 2" includes both Schedule 2A and Schedule 2B. O. Reg. 508/21, s. 14.

Compliance

98.2 (1) A person who owns or controls an agricultural operation that treats off-farm anaerobic digestion materials through mixed anaerobic digestion on a farm unit on which the agricultural operation is carried out shall ensure that, in relation to the operation,

- (a) the requirements of this Part are met; or
- (b) the requirements of sections 98.11 and 98.12 are met and,
 - (i) the terms and conditions included in an environmental compliance approval issued under the *Environmental Protection Act* in respect of an activity mentioned in subsection 27 (1) of that Act are met, or
 - (ii) the terms and conditions included in a renewable energy approval issued under the *Environmental Protection Act* in respect of an anaerobic digestion facility are met. O. Reg. 284/13, s. 7.

(2) Every person who operates a regulated mixed anaerobic digestion facility shall do so in accordance with the manufacturer's specifications unless otherwise specified by the professional engineer. O. Reg. 508/21, s. 15.

Setbacks

98.2.1 (1) On and after October 25, 2013, no person shall construct, on a farm unit on which an agricultural operation is carried out, a regulated mixed anaerobic digestion facility that is located,

- (a) within 200 metres of a dwelling;
- (b) within 450 metres of a residential area; or
- (c) within 450 metres of a commercial, community or institutional use. O. Reg. 284/13, s. 8.

(2) For the purposes of subsection (1), the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of the day on which the nutrient management strategy contemplating the construction of the facility is submitted to the Director for approval. O. Reg. 284/13, s. 8.

(3) Clause (1) (a) does not apply between a component of the regulated mixed anaerobic digestion facility and a dwelling that is located on the same property as the component of the regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 16.

(4) Clause (1) (c) does not apply between a component of the regulated mixed anaerobic digestion facility and a commercial, community or institutional use that is located on the same property as the component of the regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 16.

(5) Subject to subsections 98.4 (2) to (15), no person shall operate a regulated mixed anaerobic digestion facility constructed on or after July 1, 2021 that does not meet the setbacks described in subsections 98.2.1 (1) and (2). O. Reg. 508/21, s. 16.

(6) In this section,

“property” means land acquired under a single transfer as defined in the *Land Registration Reform Act*. O. Reg. 508/21, s. 16.

RECEIPT OF OFF-FARM ANAEROBIC DIGESTION MATERIALS

Strategy, facilities required

98.3 (1) No person shall receive off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility unless the nutrient management strategy for the farm unit on which the agricultural operation is carried out,

(a) contemplates the receipt of the materials for treatment in a regulated mixed anaerobic digestion facility; and

(b) has been approved and is in force. O. Reg. 394/07, s. 17.

(2) No person shall receive off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility unless there is an operational regulated mixed anaerobic digestion facility on the farm unit on which the operation is carried out. O. Reg. 394/07, s. 17.

(3) No person shall receive off-farm anaerobic digestion materials that are listed in Schedule 2 on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility unless there is an operational regulated mixed anaerobic digestion facility that was designed by a professional engineer to minimize odour emissions and was built to those design specifications. O. Reg. 394/07, s. 17.

General requirements for receipt

98.4 (1) No person shall receive off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility except in accordance with the following rules:

1. The materials must be listed in Schedule 1 or Schedule 2.

1.1 Materials that are listed in Schedule 2 must not contain particles of any material that will not pass through a screen whose largest opening has an area of 2.5 square centimetres.

1.2 Materials that are listed in paragraph 4 of Schedule 2A,

i. must not have been removed from the facility where the wastewater is treated more than 10 days before being received at the agricultural operation, and

ii. must be transferred using a means that minimizes odour emissions, if an offensive odour would otherwise be detectable beyond the farm unit on which the materials are received.

1.3 Materials that are listed in Schedule 1, Schedule 2A or Schedule 2B must not have a content of plastic that exceeds 0.5 per cent of the material, calculated on a dry weight basis.

1.4 Materials that are listed in Schedule 2B must be received in a form that can flow through a hose.

1.5 Materials that are listed in Schedule 2B must not be received unless permitted under subsection (2) or (5).

1.6 Materials that are listed in Schedule 2B must meet the following requirements:

i. They must come from a facility with,

A. an environmental compliance approval that was issued in respect of an activity in subsection 27(1) of the *Environmental Protection Act* and that was issued or amended on or after July 1, 2021, or

B. a renewable energy approval issued under the *Environmental Protection Act* in respect of an activity for which, in the absence of subsection 47.3 (2) of that Act, subsection 27 (1) of that Act would require an environmental compliance approval and that was issued or amended on or after July 1, 2021.

- ii. The environmental compliance approval or the renewable energy approval must permit the facility subject to the approval to generate off-farm anaerobic digestion materials for regulated mixed anaerobic digestion facilities.
- iii. The environmental compliance approval or the renewable energy approval must require that all bags and packaging be removed from the materials.
- iv. The environmental compliance approval or the renewable energy approval must require systems, facilities and equipment to be designed and operated to minimize the production of plastics with lengths of less than 5 millimetres.
- v. The environmental compliance approval or the renewable energy approval must require that the plastics in the off-farm anaerobic digestion materials do not exceed 0.5 per cent of the material, calculated on a dry weight basis.
- vi. The environmental compliance approval or the renewable energy approval must require that the off-farm anaerobic digestion materials not contain particles of any material that will not pass through a screen whose largest opening has an area of 2.5 square centimetres.

2. The materials must not be listed in Schedule 3.

2.1 Materials shall not be received at the operation before 7 a.m. or after 7 p.m. on any day.

3. No more than 200 cubic metres of materials, other than farm feed, shall be received at the operation on any day.

4. Subject to the individual capacity of the operation, there is no limit to the amount of farm feed that may be received at the operation on any day.

5. No more than 10,000 cubic metres of materials, including farm feed that is intended for treatment in the mixed anaerobic digestion facility, shall be received at the operation in any 12-month period.

6. The materials must be received in bulk or, if they are transported in packaging or storage containers of some sort, the extra packaging or containers must not remain at the operation following the receipt of the materials. O. Reg. 394/07, s. 17; O. Reg. 338/09, s. 71; O. Reg. 284/13, s. 9; O. Reg. 508/21, s. 17 (1, 2).

(2) Despite subsection (1), where a regulated mixed anaerobic digestion facility is constructed on or after July 1, 2021 and has at least a 450-metre setback from a dwelling, residential area or commercial, community or institutional use, or was constructed before July 1, 2021 and has not expanded in a manner that decreases the setback that existed on June 30, 2021 to less than 450 metres or, where the setback was less than 450 metres on June 30, 2021, has not expanded in a manner that decreases the setback that existed on June 30, 2021, and the off-farm anaerobic digestion materials are received in a feedstock system in an enclosed building that is maintained under negative air pressure, the person,

(a) may receive no more than 400 cubic metres of off-farm anaerobic digestion materials, other than farm feed, at the operation on any day;

(b) may receive no more than 40,000 cubic metres of off-farm anaerobic digestion materials, including farm feed that is intended for treatment in the regulated mixed anaerobic digestion facility, in any 12-month period; and

(c) may receive materials listed in Schedule 2B. O. Reg. 508/21, s. 17 (3).

(3) For the purposes of subsection (2), where a regulated mixed anaerobic digestion facility is constructed on or after July 1, 2021, or where a facility constructed after that date is expanded, the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of the date on which the person who owns or controls the land on which the agricultural operation is carried out submits an application for a building permit under the *Building Code Act, 1992* with respect to the construction or expansion of the regulated mixed anaerobic digestion facility, or, if a building permit in respect of such construction or expansion would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code, the date on which such construction or expansion is commenced. O. Reg. 508/21, s. 17 (3).

(4) For the purposes of subsection (2), in the case of the addition of a component to a regulated mixed anaerobic digestion facility that does not require a building permit, the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of the date on which the component is installed as part of the facility. O. Reg. 508/21, s. 17 (3).

(5) Despite subsection (1), if the regulated mixed anaerobic digestion facility is a regulated mixed anaerobic digestion facility described in subsection (6), the person,

- (a) may receive no more than 400 cubic metres of off-farm anaerobic digestion materials, other than farm feed, at the operation on any day;
- (b) may receive no more than 40,000 cubic metres of off-farm anaerobic digestion materials, including farm feed that is intended for treatment in the regulated mixed anaerobic digestion facility, in any 12-month period; and
- (c) may receive materials listed in Schedule 2B. O. Reg. 508/21, s. 17 (3).

(6) Subsection (5) applies with respect to a regulated mixed anaerobic digestion facility that has at least a 450-metre setback from a dwelling, residential area or commercial, community or institutional use, that does not receive all off-farm anaerobic digestion materials in a feedstock system in an enclosed building that is maintained under negative air pressure, but that receives material using one or more of the following methods:

1. In the case of material received in a form that can flow through a hose, the materials are received through a hose into a closed feedstock system.
2. In the case of solid materials that are not materials listed in Schedule 2B, the materials are received,
 - i. in a feedstock system that is maintained under negative air pressure when closed and is open only during the receipt of the materials, no more than four times per day, and where each opening does not exceed 20 minutes, or
 - ii. in a feedstock system that is designed and operated to maintain negative air pressure when open.
3. In the case of both liquid and solid materials, the materials are received in a feedstock system in an enclosed building that is maintained under negative air pressure. O. Reg. 508/21, s. 17 (3).

(7) For the purposes of subsection (6), in the case of a regulated mixed anaerobic digestion facility constructed or expanded before July 1, 2021 the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of June 30, 2021. O. Reg. 508/21, s. 17 (3).

(8) For the purposes of subsection (6), in the case of a regulated mixed anaerobic digestion facility constructed or expanded on or after July 1, 2021, the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of the date on which the person who owns or controls the land on which the agricultural operation is carried out submits an application for a building permit under the *Building Code Act, 1992* with respect to the construction or expansion of the facility, or, if a building permit in respect of such construction or expansion would be required under the *Building Code Act, 1992* but for the application of clause 1.3.1.1. (1) (b) of Division C of the Building Code, the date on which such construction or expansion is commenced. O. Reg. 508/21, s. 17 (3).

(9) For the purposes of subsection (6), in the case of the addition of a component to a regulated mixed anaerobic digestion facility that does not require a building permit, the location of the dwelling, residential area or commercial, community or institutional use shall be determined as of the date on which the component is installed as part of the facility. O. Reg. 508/21, s. 17 (3).

(10) Despite subsection (1), if a regulated mixed anaerobic digestion facility is a regulated mixed anaerobic digestion facility described in subsection (11), the person,

- (a) may receive no more than 200 cubic metres of off-farm anaerobic digestion materials, other than farm feed, at the operation on any day;
- (b) may receive no more than 15,000 cubic metres of off-farm anaerobic digestion materials, including farm feed that is intended for treatment in the regulated mixed anaerobic digestion facility, in any 12-month period; and

(c) may not receive materials listed in Schedule 2B. O. Reg. 508/21, s. 17 (3).

(11) Subsection (10) applies with respect to a regulated mixed anaerobic digestion facility built before July 1, 2021,

(a) with a setback of less than 450 metres from any dwelling, residential area and commercial, community or institutional use, that has not expanded on or after July 1, 2021 in a manner that decreases the setbacks that existed on June 30, 2021;

(b) that has not expanded on or after July 1, 2021 so that any setback that was greater than 450 metres on June 30, 2021 is decreased to less than 450 metres; and

(c) that does not receive all off-farm anaerobic digestion materials in a feedstock system in an enclosed building that is maintained under negative air pressure, but receives materials using one or more of the following methods:

(i) in the case of materials received in a form that can flow through a hose, the materials are received through a hose into a closed feedstock system.

(ii) in the case of solid materials, the materials are received,

(A) in a feedstock system that is maintained under negative air pressure when closed and is open only during the receipt of the materials, no more than four times per day, and where each opening does not exceed 20 minutes, or

(B) in a feedstock system that is designed and operated to maintain negative air pressure when open.

(iii) in the case of both liquid and solid materials, the materials are received in a feedstock system in an enclosed building that is maintained under negative air pressure. O. Reg. 508/21, s. 17 (3).

(12) Subject to subsection (13), no person shall receive on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility except into the feedstock system for the regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 17 (3).

(13) Subsection (12) applies where more than 10,000 cubic metres of off-farm anaerobic digestion materials were received at the farm unit in the preceding 12-month period. O. Reg. 508/21, s. 17 (3).

(14) The setbacks in this section do not apply between a component of the regulated mixed anaerobic digestion facility and a dwelling, or commercial, community or institutional use if the dwelling or commercial, community or institutional use is located on the same property as the component of the regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 17 (3).

(15) In this section,

“property” means land acquired under a single transfer as defined in the *Land Registration Reform Act*. O. Reg. 508/21, s. 17 (3).

Source separated organics

98.4.1 (1) The person who owns or controls an agricultural operation that treats off-farm anaerobic digestion materials through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility located on a farm unit on which the agricultural operation is carried out shall ensure that no source separated organics are received for mixed anaerobic digestion unless the person has received a written statement prepared by the municipality where the source separated organics were collected,

(a) stating that the source separated organics are listed in Schedule 2B; and

(b) listing the materials that are not accepted in the source separated organics stream of the municipal collection system. O. Reg. 508/21, s. 18.

(2) The person must receive the statement described in subsection (1) before the first occasion that the person receives the source separated organics collected by the municipality. O. Reg. 508/21, s. 18.

(3) A municipality that has provided a statement described in subsection (1) shall provide notice to the person who owns or controls the regulated mixed anaerobic digestion facility where there is intended to be a change in the materials accepted in the source separated organics stream of the municipal collection system, specifying the nature of the change. O. Reg. 508/21, s. 18.

Metal analysis

98.5 (1) No person shall receive off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility unless the person obtains the results of an analysis of the materials in accordance with this section. O. Reg. 394/07, s. 17.

(2) A person who receives off-farm anaerobic digestion materials shall obtain results of an analysis of the materials in each of the following circumstances:

1. It is the first time that the person receives materials supplied by that particular supplier.
2. The person has previously obtained results with respect to materials from a supplier and the person has received 1,000 cubic metres of materials, inclusive of materials that are about to be received, supplied by that supplier since the last time the person obtained results from that supplier, not including materials sent to another facility under subsection (7).
3. More than 12 months have passed since the last time the person obtained results from that supplier. O. Reg. 394/07, s. 17; O. Reg. 284/13, s. 10 (1, 2); O. Reg. 508/21, s. 19 (1).

(3) The results of an analysis of the materials must be from a sample that has been collected within 14 days before the materials are to be received and each sample of materials must be analyzed for metal in accordance with the methods specified in the Sampling and Analysis Protocol. O. Reg. 394/07, s. 17; O. Reg. 284/12, s. 7 (2).

(4) If an analysis determines that the concentration of metal in off-farm anaerobic digestion materials exceeds the maximum metal concentration set out in the Table to this section, no person shall receive the materials on the farm unit, except as set out in subsection (5). O. Reg. 284/13, s. 10 (3).

(5) A person may receive on the farm unit off-farm anaerobic digestion materials with concentrations of copper, zinc or both that exceed the maximum metal concentration set out in the Table to this section, if the following conditions are met:

1. The results of an analysis of the off-farm anaerobic digestion materials, obtained in accordance with subsections (2) and (3), show that the concentration of metal in the materials does not exceed 400 mg/kg of total solids, dry weight for copper and 700 mg/kg of total solids, dry weight for zinc.
2. The results of an analysis of the materials being treated in the regulated mixed anaerobic digestion facility, obtained in accordance with subsection (6), show that the concentration of metal in the materials does not exceed the maximum metal concentration set out in the Table to this section.
3. The analysis described in paragraph 2 must be carried out each time results described in paragraph 1 are obtained. O. Reg. 284/13, s. 10 (3).

(6) The results of an analysis of the materials being treated in the regulated mixed anaerobic digestion facility must be from a sample that has been collected within 14 days before the off-farm anaerobic digestion materials are received and each sample of materials must be analyzed for metal in accordance with the methods specified in the Sampling and Analysis Protocol. O. Reg. 284/13, s. 10 (3).

(7) Despite anything else in this section, where a person has obtained an analysis described in subsection (2) and, based on the analysis, could have accepted the materials but is unable to for a reason unrelated to the analysis, a single truckload of the materials may be received by another farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility, as long as the person who owns or controls the agricultural operation to which the materials are being sent obtains the analysis in subsection (2) before receiving the materials. O. Reg. 508/21, s. 19 (2).

TABLE

Column 1 Regulated Metal	Column 2 Maximum metal concentration in materials (mg/kg of total solids dry weight)

Arsenic	13
Cadmium	3
Chromium	210
Cobalt	34
Copper	100
Lead	150
Mercury	0.8
Molybdenum	5
Nickel	62
Selenium	2
Zinc	500

O. Reg. 284/13, s. 10 (4).

Sampling for plastic and particle size

98.5.1 (1) No person shall receive off-farm anaerobic digestion materials listed in Schedule 2B on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility unless the person obtains the results of an analysis of the materials in accordance with this section, and the analysis indicates compliance with paragraphs 1.1 and 1.3 of subsection 98.4 (1). O. Reg. 508/21, s. 20.

(2) A person who receives off-farm anaerobic digestion materials listed in Schedule 2B shall obtain results of an analysis of the materials in each of the following circumstances:

1. It is the first time that the person receives materials supplied by that particular operator of a facility described in paragraph 1.6 of subsection 98.4 (1).
2. The person has previously obtained results with respect to materials from an operator of a facility and the person has received 1,000 cubic metres of materials, inclusive of materials that are about to be received, supplied by that operator since the last time the person obtained results from that operator, not including materials sent to another facility under subsection (5).
3. More than 12 months have passed since the last time the person obtained results from that operator. O. Reg. 508/21, s. 20.

(3) The results of an analysis of the materials must be from a sample that has been collected within 14 days before the materials are to be received and each sample of the materials must be analyzed for its content of plastic on a dry weight basis and for particles of any material that will not pass through a screen whose largest opening has an area of 2.5 square centimetres in accordance with the methods specified in the Sampling and Analysis Protocol. O. Reg. 508/21, s. 20.

(4) The operator of the facility described in paragraph 1.6 of subsection 98.4 (1) that supplies the materials listed in Schedule 2B shall ensure that when the person receives the materials from the operator, the person also receives the results of the analysis required by this section. O. Reg. 508/21, s. 20.

(5) Despite anything else in this section, where a person has obtained an analysis described in subsection (2) and, based on the analysis, could have accepted the materials but is unable to for a reason unrelated to the analysis, a single truckload of the materials may be received by another farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility, as long as the person who owns or controls the agricultural operation to which the materials are being sent obtains the analysis in subsection (2) before receiving the materials. O. Reg. 508/21, s. 20.

STORAGE OF OFF-FARM ANAEROBIC DIGESTION MATERIALS

General requirements for storage

98.6 (1) No person shall store off-farm anaerobic digestion materials on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility except in accordance with the following rules:

1. REVOKED: O. Reg. 508/21, s. 21 (1).
2. No more than 200 cubic metre of materials, other than farm feed, may be stored at any one time.
3. Subject to the individual capacity of the operation, there is no limit to the amount of farm feed that may be stored.
4. Materials that have a dry matter content of less than 18 per cent must be stored in a sealed tank.
5. Subject to paragraph 6, materials that have a dry matter content of at least 18 per cent and no more than 50 per cent that are stored for more than 48 hours must be stored in an enclosed storage facility.
6. Farm feed that has the dry matter content described in paragraph 5 need not be stored in accordance with paragraph 5, but it must be stored with a cover that prevents precipitation from coming into contact with the farm feed.
7. Subject to paragraph 8, materials that have a dry matter content of more than 50 per cent that are stored for more than 30 days must be stored in a facility that has,
 - i. walls that enclose at least 75 per cent of the area of the facility, and
 - ii. a roof that covers the entire facility and is attached to the walls.
8. Farm feed that has the dry matter content described in paragraph 7 need not be stored in accordance with paragraph 7, but it must be stored with a cover that prevents precipitation from coming into contact with the farm feed.
9. Materials listed in Schedule 2 must be stored in a facility that was designed by a professional engineer to minimize odour emissions and was built to those design specifications. O. Reg. 394/07, s. 17; O. Reg. 338/09, s. 72; O. Reg. 508/21, s. 21 (1).

(2) In the case of a regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in the preceding 12-month period, all manure that is received from another farm unit that is intended for treatment in the facility must be stored in a permanent nutrient storage facility that was constructed after June 30, 2003 in accordance with the requirements of this Regulation that were in force at the time the storage facility was constructed. O. Reg. 508/21, s. 21 (2).

(3) No person shall store off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility except in a storage facility that is part of a feedstock system. O. Reg. 508/21, s. 21 (2).

(4) No person shall store off-farm anaerobic digestion materials or on-farm anaerobic digestion materials that are fruit, vegetables or plant materials from the production and processing of fruit or vegetables on a farm unit on which an agricultural operation is carried out for treatment in a regulated mixed anaerobic digestion facility except in a storage facility constructed after June 30, 2003 and constructed according to the rules for permanent nutrient storage facilities set out in Part VIII that were in force at the time the storage facility was constructed. O. Reg. 508/21, s. 21 (2).

(5) Subsections (3) and (4) apply where more than 10,000 cubic metres of off-farm anaerobic digestion materials were received in the preceding 12-month period. O. Reg. 508/21, s. 21 (2).

Odour management rules

98.6.1 (1) This section applies to a person who owns or controls a regulated mixed anaerobic digestion facility that,

- (a) has received more than 10,000 cubic metres of off-farm anaerobic digestion materials in the preceding 12-month period; or
- (b) has received materials listed in Schedule 2B in the preceding 12-month period. O. Reg. 508/21, s. 22.

(2) Where this section applies to a person pursuant to clause (1) (a), this section applies for a minimum of 12 months. O. Reg. 508/21, s. 22.

(3) A person to whom this section applies shall ensure that an odour management plan is prepared with respect to the regulated mixed anaerobic digestion facility by a professional engineer, and that the plan is implemented. O. Reg. 508/21, s. 22.

(4) The professional engineer preparing an odour management plan shall do so in accordance with the requirements of this Regulation and have regard to the most recent version of the documents known as "Best Management Practices for Industrial Sources of Odour" and "Odour Guidance for On-farm Anaerobic Digestion" available on a website of the Government of Ontario. O. Reg. 508/21, s. 22.

(5) The odour management plan must contain, at a minimum, the following:

1. A description of the regulated mixed anaerobic digestion facility, and the types of off-farm and on-farm anaerobic digestion materials anticipated to be received.
2. A map or diagram of the regulated mixed anaerobic digestion facility and other odour sources on the farm unit, likely odour receptors, prevailing wind direction, and physical or geographic features that may impact air movement.
3. An identification of each source of odour emission and potential odour emission at the regulated mixed anaerobic digestion facility and, for each source so identified,
 - i. a description of the odour, including cause, type, strength, and frequency,
 - ii. potential causes for increases in the odour emission and potential odour emission, and risk factors that might cause increases,
 - iii. a description of odour control measures including systems and operations used to prevent or minimize the odour emission and potential odour emission,
 - iv. identification of any additional measures including systems, and operations that could be implemented to control each odour emission and potential odour emission, including the trigger or likely cause for use of the additional measure, frequency, and duration that the additional measure may be applied, and
 - v. inspection and monitoring procedures, including the equipment's service and maintenance schedules.
4. An odour contingency plan to address any problems with the regulated mixed anaerobic digestion facility that could lead to odours.
5. A training program for all odour management operations that require staff training.
6. A complaints response plan that outlines procedures that will be taken for receiving and responding to public complaints, including requirements to,
 - i. record the date of the complaint,
 - ii. describe the complaint,
 - iii. assess the regulated mixed anaerobic digestion facility in light of the complaint and identify actions necessary to respond to the complaint, and
 - iv. describe the actions taken in response to the complaint. O. Reg. 508/21, s. 22.

(6) The odour management plan must be signed by the person to whom this section applies. O. Reg. 508/21, s. 22.

(7) Despite section 28.1, the person to whom this section applies shall ensure that the odour management plan is updated by a professional engineer,

- (a) when changes are made to systems and operations provided for in the plan;
- (b) when changes are made to the types of off-farm or on-farm anaerobic digestion materials treated in the regulated mixed anaerobic digestion facility; and
- (c) when 10 years have passed since the last update. O. Reg. 508/21, s. 22.

(8) A professional engineer who prepares or updates an odour management plan shall prepare and sign a statement confirming the professional engineer has reviewed the odour management plan and is satisfied that the plan has been prepared in accordance with this section. O. Reg. 508/21, s. 22.

Odour control system

98.6.2 (1) A person to whom section 98.6.1 applies shall ensure that the regulated mixed anaerobic digestion facility has an odour control system that is designed and operated in accordance with the following:

1. The odour control system and its operating specifications must be designed by a professional engineer.
2. The odour control system must be of sufficient size to treat all the odour emissions from the feedstock system.
3. All of the odour emissions from the feedstock system must be delivered to and treated in the odour control system.
4. The operating specifications for the odour control system must be kept at the site of the regulated mixed anaerobic digestion facility.
5. The operating specifications for the odour control system must identify the records to be kept by the operator of the regulated mixed anaerobic digestion facility.
6. The odour control system must be operated in accordance with its operating specifications. O. Reg. 508/21, s. 22.

(2) Paragraphs 4 to 8 of subsection 98.6 (1) do not apply where the person is required to comply with this section. O. Reg. 508/21, s. 22.

Significant odour emission

98.6.3 (1) No person shall operate a regulated mixed anaerobic digestion facility in a manner that generates a significant odour emission uncharacteristic of an agricultural operation that does not have a regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 22.

(2) This section applies to the following regulated mixed anaerobic digestion facilities:

1. Facilities constructed on or after July 1, 2021.
2. Facilities that have received more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period.
3. Facilities that have received materials listed in Schedule 2B. O. Reg. 508/21, s. 22.

(3) No person shall store on or apply to the land of a farm unit in the course of an agricultural operation any anaerobic digestion output that comes from a regulated mixed anaerobic digestion facility described in subsection (2) in a manner that generates a significant odour emission uncharacteristic of an agricultural operation that does not store anaerobic digestion output or apply anaerobic digestion output to land. O. Reg. 508/21, s. 22.

TREATMENT OF ANAEROBIC DIGESTION MATERIALS

Requirements re biogas

98.7 (1) No person shall treat anaerobic digestion materials in a regulated mixed anaerobic digestion facility on a farm unit on which an agricultural operation is carried out unless,

- (a) the facility is equipped with, connected to or has access to one or more gas combustion systems or biogas upgrading systems that are collectively capable of consuming the equivalent of 110 per cent of the biogas that the facility can generate;
- (b) any gas storage cover installed in respect of the facility has a design permeability of less than 500 cm³/m²/day/bar; and
- (c) there is compliance with subsection (3) or (4), as the case may be. O. Reg. 284/13, s. 11; O. Reg. 508/21, s. 23 (1).

(2) The design permeability requirement in clause (1) (b) does not apply if the gas storage cover was installed in respect of the facility before October 25, 2013. O. Reg. 284/13, s. 11.

(3) If the regulated mixed anaerobic digestion facility is designed to generate biogas at a rate that does not exceed 50 m³/hour, a secondary gas burning facility must be available, but need not be located on the farm unit at all times, and must be used within 48 hours if the rate of release of non-combusted biogas exceeds 20 m³/hour. O. Reg. 284/13, s. 11.

(4) If the regulated mixed anaerobic digestion facility is designed to generate biogas at a rate that exceeds 50 m³/hour, a secondary gas burning facility must be available, must be located on the farm unit at all times, and must be used to prevent any release of non-combusted biogas. O. Reg. 284/13, s. 11; O. Reg. 508/21, s. 23 (2).

(5) If the regulated mixed anaerobic digestion facility receives more than 10,000 cubic metres of off-farm anaerobic materials in the preceding 12-month period or if it receives materials listed in Schedule 2B in the preceding 12-month period,

(a) the secondary gas burning facility must be a high efficiency flare that meets the following requirements:

(i) the flare must be designed by a professional engineer, and

(ii) the flare must be sized by the professional engineer to consume 110% of the biogas production capacity of the facility; and

(b) any biogas or renewable natural gas that is not used, consumed or removed from the facility must be disposed of in the flare described in clause (a). O. Reg. 508/21, s. 23 (3).

Generated materials

98.8 (1) No person shall treat on-farm anaerobic digestion materials in a regulated mixed anaerobic digestion facility on a farm unit on which no livestock operation is carried out unless the materials meet the following criteria:

1. The materials were generated on the farm unit on which the anaerobic digestion facility is located.
2. Despite paragraph 1, materials may be received from one or more agricultural operations carried out on several farm units, if the total number of farm animals on all the farm units generate less than 2,000 nutrient units annually.
3. The materials are organic materials that were generated through,
 - i. the growing, producing or raising of farm animals,
 - ii. the production of agricultural crops, including greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, trees and turf grass,
 - iii. the production of eggs, cream or milk, or
 - iv. the processing by a farmer of products produced primarily from the farmer's agricultural operation. O. Reg. 394/07, s. 17; O. Reg. 284/13, s. 12; O. Reg. 508/21, s. 24 (1).

(2) No person shall treat on-farm anaerobic digestion materials in a regulated mixed anaerobic digestion facility on a farm unit on which livestock operations are carried out unless the materials meet the criteria in paragraph 3 of subsection (1). O. Reg. 508/21, s. 24 (2).

General requirements for treatment

98.9 (1) No person shall treat anaerobic digestion materials in a regulated mixed anaerobic digestion facility on a farm unit on which an agricultural operation is carried out except in accordance with the following rules:

1. No anaerobic digestion materials may be treated in the facility unless they are,
 - i. on-farm anaerobic digestion materials that meet the criteria set out in section 98.8, or
 - ii. off-farm anaerobic digestion materials that are received in accordance with sections 98.4, 98.4.1, 98.5, and 98.5.1.

2. Off-farm anaerobic digestion materials that have a dry matter content of less than 1 per cent may be added for treatment in the facility only if the anaerobic digestion materials that are already being treated in the facility have a dry matter content of at least 8 per cent. The dry matter content of the materials already being treated must be measured during the 24-hour period before the off-farm anaerobic digestion materials are added.
 3. At all times at least 50 per cent, by volume, of the total amount of anaerobic digestion materials that are being treated in anaerobic digestion vessels in the facility must be on-farm anaerobic digestion materials.
 4. At all times, the total amount of manure being treated in the anaerobic digestion vessels in the facility must be,
 - i. at least 50 per cent, by volume, of the total amount of off-farm anaerobic digestion materials being treated, and
 - ii. at least 5 per cent by volume of the total amount of on-farm and off-farm anaerobic digestion materials being treated.
 - 4.1 Until the requirements set out in paragraphs 3 and 4 are met in a single anaerobic digestion vessel, material may not be removed from an anaerobic digestion vessel, except for treatment in another anaerobic digestion vessel.
 5. Subject to subsection (3), the average time anaerobic digestion materials are treated in the facility must be at least 20 days.
 6. Subject to subsection (4), anaerobic digestion materials must be treated at no less than 35 degrees Celsius at all times.
 7. All the biogas generated by the facility must be collected and treated in accordance with section 98.7.
 8. The facility must have a device for monitoring the actual temperature at which the material is being,
 - i. treated, and
 - ii. heated in accordance with subsection (2), if that heating takes place in the facility.
 9. The facility must be operated in accordance with a professional engineer's design specifications.
 10. Any sampling port for liquids that is used in respect of the facility,
 - i. must be installed using specifically designed gasketed fittings, such as tees, saddles, end caps and elbows, that are compatible with the material of the sampling port, and
 - ii. must have a primary shut-off valve and a secondary shut-off valve.
 11. If the facility is designed to generate biogas at a rate that exceeds 50 m³/hr, it must have a device for monitoring whether the pressure relief device is open.
 12. A sign that provides the information set out in subsection (4.1) and can be read from the public road nearest to the facility must be posted on the farm unit. O. Reg. 284/13, s. 13 (1, 2); 508/21, s. 25 (1, 2).
- (2) Materials listed in Schedule 2 must be heated before or during treatment,
- (a) for no less than one hour at no less than 70 degrees Celsius; or
 - (b) for no less than 20 hours at no less than 50 degrees Celsius. O. Reg. 284/13, s. 13 (1).
- (2.1) In the case of materials listed in Schedule 2B, the heating under subsection (2) must take place at the regulated mixed anaerobic digestion facility. O. Reg. 508/21, s. 25 (3).
- (2.2) In the case of materials listed in Schedule 2B, when the material is introduced into a vessel for the heating required under subsection (2), the material must have a dry matter content of less than 18 per cent and have a slump of more than 150 millimetres using the Test Method for the Determination of Liquid Waste (slump test) set out in Schedule 9 of Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*. O. Reg. 508/21, s. 25 (3).

(2.3) Despite paragraph 8 of subsection (1), a regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period or any material listed in Schedule 2B must have two devices for monitoring the actual temperature at which the materials are being heated in accordance with subsection (2), if that heating takes place in the facility, with those two devices being located separately to ensure the taking of representative temperature measurements. O. Reg. 508/21, s. 25 (3).

(2.4) A regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period or any materials listed in Schedule 2B must have a means by which a sample can be taken that represents the contents of the anaerobic digestion vessel before the material in the vessel enter into the storage for anaerobic digestion output. O. Reg. 508/21, s. 25 (3).

(3) Despite paragraph 5 of subsection (1), anaerobic digestion materials may be treated in the facility for an average time of less than 20 days if,

- (a) a professional engineer designs the facility such that it is capable of reducing the content of total volatile solids of the materials in the facility by at least 50 per cent in less than 20 days;
- (b) the facility is built to the engineer's design specifications; and
- (c) the average time is equal to or greater than the shorter period of time specified by the professional engineer. O. Reg. 284/13, s. 13 (1).

(4) Despite paragraph 6 of subsection (1), anaerobic digestion materials may be treated at less than 35 degrees Celsius if,

- (a) a professional engineer designs the facility such that it is capable of reducing the content of total volatile solids of the materials in the facility by at least 50 per cent at a temperature that is less than 35 degrees Celsius;
- (b) the facility is built to the professional engineer's design specifications; and
- (c) the anaerobic digestion materials are treated at a temperature that is no less than the temperature specified by the professional engineer. O. Reg. 284/13, s. 13 (1).

(4.1) The sign required by paragraph 12 of subsection (1) must,

- (a) indicate that an anaerobic digestion facility governed by this Regulation is located on the farm unit; and
- (b) provide the name and contact information of the owner or operator of the facility. O. Reg. 284/13, s. 13 (3).

(5) If a nutrient management strategy that contemplates mixed anaerobic digestion in the facility was approved before October 25, 2013, paragraphs 10 and 11 of subsection (1) do not apply to the facility until July 1, 2016. O. Reg. 284/13, s. 13 (1).

STORAGE OF ANAEROBIC DIGESTION OUTPUT

Storage capacity

98.10 (1) No person shall treat anaerobic digestion materials on a farm unit on which an agricultural operation is carried out through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility unless the farm unit is capable of storing all of the anaerobic digestion output generated in the course of the operation during a period of 240 days. O. Reg. 394/07, s. 17.

(2) The 240 day storage capacity referred to in subsection (1) is in addition to the requirements for storage capacity set out in section 69 and may be achieved through the storage capacity of a combination of facilities described in Part VIII. O. Reg. 394/07, s. 17.

(3) Despite subsection (1), a farm unit on which an agricultural operation is carried out may have a total storage capacity of less than 240 days for anaerobic digestion output if the person who owns or controls the operation has agreements to transfer some of the output off the farm unit. O. Reg. 394/07, s. 17.

(4) If a farm unit on which an agricultural operation is carried out has a total storage capacity for anaerobic digestion output of less than 240 days in accordance with subsection (3), the person who owns or controls the operation shall ensure that the storage capacity of the farm unit is at least equal to the capacity required to store the output that is not transferred off the farm unit. O. Reg. 394/07, s. 17.

(5) Despite subsection (1), if a person who owns or controls the operation has a nutrient management strategy for the farm unit on which the agricultural operation is carried out that provides for the use of some or all of the solid anaerobic digestion output generated in the course of the operation by a means that eliminates the need for storing the output on the farm unit for 240 days, the storage capacity of the farm unit must be at least equal to the storage capacity that the strategy requires. O. Reg. 394/07, s. 17.

(6) Despite subsection (1), a person may treat anaerobic digestion materials on a farm unit on which the agricultural operation is carried out through mixed anaerobic digestion in a regulated mixed anaerobic digestion facility where the farm unit has a total storage capacity of less than 240 days for anaerobic digestion output if,

- (a) the anaerobic digestion output is solid;
- (b) the person who owns or controls the agricultural operation has an application schedule that complies with section 98.11 and that provides for the application of the anaerobic digestion output to land, on a schedule of times that eliminates the need for storing the materials on the farm unit for 240 days;
- (c) the person who owns or controls the agricultural operation applies the anaerobic digestion output to land in accordance with the application schedule; and
- (d) the storage capacity is equal to the storage capacity that the application schedule requires. O. Reg. 394/07, s. 17.

LAND APPLICATION OF ANAEROBIC DIGESTION OUTPUT

General requirements for land application

Application

98.11 (1) This section applies,

- (a) in respect of the application of any anaerobic digestion output that falls within the definition of agricultural source material to land on a farm unit on which an agricultural operation is carried out; and
- (b) to all agricultural operations. O. Reg. 394/07, s. 17; O. Reg. 508/21, s. 26 (1).

(2) No person shall apply anaerobic digestion output that falls within the definition of agricultural source material to land on a farm unit on which an agricultural operation is carried out except in accordance with the following rules:

1. The application must comply with every requirement in Part VI that governs the land application of agricultural source materials, prescribed materials or nutrients, except section 41.
2. The anaerobic digestion output must not be applied to an area whose maximum sustained slope is 25 per cent or greater if it lies within the zone that is 150 metres from the top of the bank of surface water.
3. The anaerobic digestion output must not be applied using a high trajectory irrigation gun capable of spraying liquid more than 10 metres unless the materials being applied are an aqueous solution or suspension containing more than 99 per cent water by weight.
4. The application must comply with section 52.7 and, for that purpose, every reference to "non-agricultural source materials" in that section shall be read as including a reference to "anaerobic digestion output".
5. The anaerobic digestion output must not result from the treatment of anaerobic digestion materials that include materials listed in Schedule 3. O. Reg. 394/07, s. 17; O. Reg. 338/09, s. 73; O. Reg. 284/13, s. 14; O. Reg. 508/21, s. 26 (2).

(3) Despite subsection (2), no person shall apply anaerobic digestion output that falls within the definition of agricultural source material and that results from the treatment of anaerobic digestion materials that include materials listed in Schedule 2B in a regulated mixed anaerobic digestion facility to land on a farm unit on which an agricultural operation is carried out if,

- (a) the output's content of glass, metallic objects, plastic and other foreign objects exceeds 2 per cent, calculated on a dry weight basis;

- (b) the output's content of plastic exceeds 0.5 per cent, calculated on a dry weight basis;
- (c) the output's content of a regulated metal exceeds the maximum concentrations set out in column 2 or 3, as applicable, of Table 2 of Schedule 5; or
- (d) the output's content of E. coli exceeds the maximum E. coli levels set out in column 2 of Table 3 of Schedule 6 if it is material containing less than 1 per cent total solids, wet weight or column 3 of Table 3 of Schedule 6, if it is material containing 1 per cent or more total solids, wet weight. O. Reg. 508/21, s. 26 (3).

(4) Despite anything else in this Regulation, no person shall apply anaerobic digestion output that falls within the definition of agricultural source material and that results from the treatment of anaerobic digestion materials that include materials listed in Schedule 2B in a regulated mixed anaerobic digestion facility to land on a farm unit on which an agricultural operation is carried out unless at least one of the following conditions is satisfied:

- 1. In the case of solid or liquid ASM, the amount of total organic matter as defined in subsection 98.0.6 (2) is more than 15 per cent calculated on a dry weight basis.
- 2. In the case of solid or liquid ASM it is used to increase the soil pH value.
- 3. In the case of solid ASM, the total concentration of plant available nitrogen, plant available phosphate and plant available potassium, determined in accordance with the Sampling and Analysis Protocol, is more than 13,000 milligrams per kilogram of the ASM, calculated on a dry weight basis.
- 4. In the case of liquid ASM, the total concentration of plant available nitrogen, plant available phosphate and plant available potassium is more than 140 milligrams per litre of the ASM.
- 5. In the case of liquid ASM, the condition set out in paragraph 4 is not satisfied but the liquid ASM is an aqueous solution or suspension containing more than 99 per cent water by weight and is used to irrigate crops during the period that begins on June 15 and ends on September 30 of the same year. O. Reg. 508/21, s. 26 (3).

(5) If testing is carried out to determine whether the anaerobic digestion output to be applied to land meets the standards in subsections (3) and (4), it must be carried out in accordance with the following rules:

- 1. Testing must be carried out in accordance with the Sampling and Analysis Protocol.
- 2. Every sample collected for analysis must be a composite sample. O. Reg. 508/21, s. 26 (3).

(6) No person shall apply anaerobic digestion output that falls within the definition of agricultural source material to land on a farm unit on which an agricultural operation is carried out except in accordance with the rules in subsection (7), if,

- (a) a nutrient management plan is not required for the farm unit on which the agricultural operation is carried out; and
- (b) the anaerobic digestion output is received from a regulated mixed anaerobic digestion facility located on an agricultural operation located on a farm unit that received more than 10,000 cubic metres of off-farm anaerobic digestion materials or any material listed in Schedule 2B in the preceding 12-month period. O. Reg. 508/21, s. 26 (3).

(7) The following are the rules for the purposes of subsection (6):

- 1. The application must occur at a rate such that the total plant available phosphate in all prescribed materials that are applied to the land per hectare during any consecutive five-year period does not exceed the greater of,
 - i. the crop production requirements per hectare for that five-year period plus 85 kilograms of phosphate per hectare, and
 - ii. the phosphate removed from the land per hectare in the harvested portion of the crop during that five-year period plus 390 kilograms of phosphate per hectare.
- 2. The application must occur at a rate such that the total plant available nitrogen in all prescribed materials that are applied to the land per hectare does not exceed 200 kilograms of plant available nitrogen per hectare in any 12-month period. O. Reg. 508/21, s. 26 (3).

(8) For the purposes of paragraph 2 of subsection (7), the total plant available nitrogen is the sum resulting from the following calculation:

$$(\text{ammonia and ammonium nitrogen}) + (\text{nitrite and nitrate nitrogen}) + (0.3) (\text{organic nitrogen})$$

where,

$$\text{organic nitrogen} = \text{Kjeldahl nitrogen} - (\text{ammonia and ammonium nitrogen}).$$

O. Reg. 508/21, s. 26 (3).

Application of output not from regulated mixed anaerobic digestion facility

98.12 (1) No person shall apply anaerobic digestion output that is from a mixed anaerobic digestion facility that is not a regulated mixed anaerobic digestion facility to land on a farm unit on which an agricultural operation is carried out except in accordance with the nutrient management plan that is in force with respect to the operation and the farm unit. O. Reg. 508/21, s. 27.

(2) No person shall apply anaerobic digestion output that is from a mixed anaerobic digestion facility that is not a regulated mixed anaerobic digestion facility to land on a farm unit on which an agricultural operation is carried out except in accordance with the following rules:

1. The application must occur at a rate such that the total plant available phosphate in all prescribed materials that are applied to the land per hectare during any consecutive five-year period does not exceed the greater of,
 - i. the crop production requirements per hectare for that five-year period plus 85 kilograms of phosphate per hectare, and
 - ii. the phosphate removed from the land per hectare in the harvested portion of the crop during that five-year period plus 390 kilograms of phosphate per hectare.
2. The application must occur at a rate such that the total plant available nitrogen in all prescribed materials that are applied to the land per hectare does not exceed 200 kilograms of plant available nitrogen per hectare in any 12-month period. O. Reg. 508/21, s. 27.

(2.1) Subsection (1) applies to land on a farm unit on which an agricultural operation is carried out if a nutrient management plan is required for the agricultural operation carried out on the farm unit, and subsection (2) applies to all other land on a farm unit on which an agricultural operation is carried out. O. Reg. 508/21, s. 27.

(3) For the purposes of paragraph 2 of subsection (2), the total plant available nitrogen is the sum resulting from the following calculation:

$$(\text{ammonia and ammonium nitrogen}) + (\text{nitrite and nitrate nitrogen}) + (0.3) (\text{organic nitrogen})$$

where,

$$\text{organic nitrogen} = \text{Kjeldahl nitrogen} - (\text{ammonia and ammonium nitrogen}).$$

O. Reg. 394/07, s. 17; O. Reg. 338/09, s. 74 (2).

Clean-out material

98.12.1 (1) No person shall apply clean-out material from a regulated mixed anaerobic digestion facility described in subsection (2) to land on a farm unit on which an agricultural operation is carried out except in accordance with the following rules:

1. Any clean-out material to be applied to land must be tested in accordance with subsection (3) and the most recent results of an analysis conducted must show that the clean-out material to be applied to land meets the following standards:
 - i. The glass, metallic objects, plastic and other foreign objects in the material do not exceed 2 per cent calculated on a dry weight basis.
 - ii. The plastic content does not exceed 0.5 per cent calculated on a dry weight basis.

2. The application must be carried out in accordance with section 98.11. O. Reg. 508/21, s. 28.

(2) The regulated mixed anaerobic digestion facility referred to in subsection (1) is a regulated mixed anaerobic digestion facility on a farm unit that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in any 12-month period or any materials listed in Schedule 2B, where the clean-out material has not been removed from the anaerobic digestion vessel since the most recent receipt of this amount or type of material. O. Reg. 508/21, s. 28.

(3) Testing to determine whether the clean-out material intended to be applied to land meets the standards in paragraph 1 of subsection (1) must be carried out in accordance with the following rules:

1. Testing must be carried out in accordance with the Sampling and Analysis Protocol.
2. Every sample collected for analysis must be a composite sample. O. Reg. 508/21, s. 28.

(4) Clean-out material that may not be applied to land under this section, or that is not intended for land application, must be removed from the farm unit. O. Reg. 508/21, s. 28.

(5) In this section,

“clean-out material” means anaerobic digestion output material that has been removed from an anaerobic digestion vessel due to floating or settling of the material and that has been recovered as part of maintenance of the anaerobic digestion vessel. O. Reg. 508/21, s. 28.

RECORDS RE ANAEROBIC DIGESTION

Records re anaerobic digestion

98.13 (1) Every person who owns or controls an agricultural operation that treats anaerobic digestion materials through the use of a regulated mixed anaerobic digestion facility shall keep the following records:

1. Records of the professional engineer’s design specifications.
2. With respect to every delivery of off-farm anaerobic digestion materials,
 - i. the name and address of the supplier,
 - ii. the name and address of the person making the delivery,
 - iii. the types of material received and the volume of materials received, and
 - iv. if the heating described in subsection 98.9 (2) did not take place on the farm unit where treatment took place in accordance with subsection 98.9 (1), the records described in subsection (1.1).
3. The results of the analyses determining the concentrations of metals as required under section 98.5.
 - 3.1 The results of the analyses carried out in accordance with section 98.5.1.
 - 3.2 In the case of a regulated mixed anaerobic digestion facility that receives more than 10,000 cubic metres of off-farm anaerobic digestion materials in the 12-month period preceding the date when the materials are heated under 98.9 (2), or any materials listed in Schedule 2B in the preceding 12-month period, a record of results showing time and temperature of heating described in subsection 98.9 (2) that took place on the farm unit, with the results being graphed or kept in a form that is capable of being graphed.
4. The results of all analyses performed on anaerobic digestion output, as required.
5. The destination of the anaerobic digestion output.
 - 5.1 Records of complaints made in accordance with paragraph 6 of subsection 98.6.1 (5).
 - 5.2 Records showing how the person met the requirements of the operating specifications for the odour control system required by section 98.6.2.
 - 5.3 Records showing the results of the analysis required under section 98.12.1.

6. A record of the date and duration of use, if any, of a secondary gas burning facility described in subsection 98.7 (3), (4) or (5). O. Reg. 394/07, s. 17; O. Reg. 284/13, s. 15 (1, 2); O. Reg. 508/21, s. 29 (1, 2).

(1.1) The records referred to in subparagraph 2 iv of subsection (1) are,

- (a) a statement by the person who heated the materials, identifying the off-site system where the materials were heated and indicating that they were heated,
- (i) for no less than one hour at no less than 70 degrees Celsius, or
 - (ii) for no less than 20 hours at no less than 50 degrees Celsius; and
- (b) a statement from a professional engineer indicating that the off-site system exists and is capable of heating materials as described in clause (a). O. Reg. 284/13, s. 15 (3).

(2) The person who owns or controls the agricultural operation shall maintain the records required under subsection (1) in accordance with section 112 and subsection 113 (1), with necessary modifications. O. Reg. 394/07, s. 17; O. Reg. 508/21, s. 29 (3).

(3) A record required to be kept under this section must be kept for at least two years from the day it is made. O. Reg. 508/21, s. 29 (4).

(4) The person responsible for keeping the records is also responsible for ensuring that they are made and collected. O. Reg. 508/21, s. 29 (4).

PART IX.2 VEGETATED FILTER STRIP SYSTEMS

APPLICATION AND EXCEPTION

Application

98.14 Subject to section 98.15, a person who owns or controls an agricultural operation where a vegetated filter strip system is established, constructed, altered, expanded or operated shall ensure that the requirements of this Part are met in relation to the system. O. Reg. 394/07, s. 17.

Exception

98.15 This Part does not apply to the establishment, construction, alteration, expansion or operation of a vegetated filter strip system that manages runoff as part of an agricultural operation if,

- (a) the vegetated filter strip system is or forms part of a sewage works that is subject to an environmental compliance approval issued in respect of an activity mentioned in subsection 53 (1) of the *Ontario Water Resources Act*;
- (b) the person who owns or controls the agricultural operation holds an environmental compliance approval issued in respect of the establishment, alteration, extension or replacement of the sewage works; and
- (c) the vegetated filter strip system is used or operated in compliance with the environmental compliance approval. O. Reg. 394/07, s. 17; O. Reg. 266/11, s. 15.

CRITERIA FOR VEGETATED FILTER STRIP SYSTEM

Criteria

98.16 (1) A person who establishes, constructs, alters, expands or operates a vegetated filter strip system shall ensure that the following criteria are met:

1. The vegetated filter strip must slope downward from the location of the distribution pipe, with no abrupt changes in the slope and with the slope on any portion of the vegetated filter strip being no less than 2 per cent and no greater than 12 per cent.
2. The profile of the vegetated filter strip across its width must be flat.
3. The minimum depth of soil to bedrock under the extended vegetated filter strip area must be 0.5 metres.
4. The minimum depth of soil to the uppermost identified aquifer under the extended vegetated filter strip area must be 0.9 metres.

5. The vegetated filter strip must not be located within three metres of a field tile drain.
6. The vegetated filter strip must not be located within,
 - i. 100 metres of a municipal well,
 - ii. 15 metres of a drilled well that has a depth of at least 15 metres and a water tight casing to a depth of at least six metres below ground level, or
 - iii. 30 metres of any other well.
7. The vegetated filter strip must not be located in an area that is subject to flooding once or more every 100 years, according to flood plain mapping provided by the municipality or conservation authority having jurisdiction over the area. O. Reg. 394/07, s. 17; O. Reg. 338/09, s. 75.

(2) In this section,

“extended vegetated filter strip area” means the area on the surface of the ground that comprises the area of the vegetated filter strip plus the area that extends outwards a distance of 10 metres from every point on the perimeter of the vegetated filter strip. O. Reg. 394/07, s. 17.

Additional requirements

98.17 In addition to complying with the criteria set out in subsection 98.16 (1), a person who establishes, constructs, alters, expands or operates a vegetated filter strip system shall ensure that one of the following requirements is met:

1. There is a flow path,
 - i. that is at least 50 metres long extending from the lower edge of the vegetated filter strip to the top of the bank of the nearest surface water or tile inlet, and
 - ii. that is maintained under continuous vegetated cover, including perennial grasses, forbs or trees and perennial forage crops that can be harvested as hay or silage.
2. There is a permanently vegetated area that is adjacent to the lower edge of the vegetated filter strip and is located between the vegetated filter strip and the top of the bank of the nearest surface water or tile inlet. There is at least the minimum appropriate length between the lower edge of the vegetated filter strip and the top of the bank of the nearest surface water or tile inlet, as determined by referring to the average slope of the strip set out in Column 1 of the Table and referring to the minimum appropriate length set out opposite the slope in Column 2 of the Table.

TABLE

Column 1 Average Slope of Vegetated Filter Strip (in per cent)	Column 2 Minimum Length between Lower Edge of Vegetated Filter Strip and Top of Bank of Nearest Surface Water or Tile Inlet (in metres)
2 to < 4	10
4 to < 6	20
6 to < 8	30
8 to < 10	40
10 to ≤ 12	50

O. Reg. 394/07, s. 17.

DESIGN AND ESTABLISHMENT OF VEGETATED FILTER STRIP SYSTEM

Design and establishment

98.18 No person shall establish, construct, alter or expand a vegetated filter strip system unless,

- (a) a professional engineer designs the establishment, construction, alteration or expansion of the vegetated filter strip system in accordance with the requirements of this Regulation;
- (b) the vegetated filter strip is designed to accommodate infiltration of 100 per cent of the runoff treated by the vegetated filter strip system;
- (c) the professional engineer provides the person who owns or controls the agricultural operation with a written notice that sets out the design specifications and the amount of runoff that the vegetated filter strip system is designed to treat;
- (d) the vegetated filter strip system is built to the professional engineer's design specifications; and
- (e) the professional engineer provides the person who owns or controls the agricultural operation with a written notice that indicates the vegetated filter strip system meets the design specifications. O. Reg. 394/07, s. 17; O. Reg. 508/21, s. 30.

RUNOFF

Pre-treatment of runoff

98.19 No person shall establish, construct, alter, expand or operate a vegetated filter strip system unless it is designed to pre-treat runoff through the use of a component that is designed and operated to store and settle the solids before the runoff is transferred to the vegetated filter strip. O. Reg. 394/07, s. 17.

Discharge of runoff

98.20 No person shall permit the discharge of runoff through a vegetated filter strip system to a vegetated filter strip unless,

- (a) the runoff being discharged is distributed in a uniform manner across the full width of the strip;
- (b) the runoff proceeds down the strip in a sheet flow;
- (c) the strip is free from rills and channels, which may affect the distribution of the runoff on the strip; and
- (d) the strip is free of accumulated sediments and solids. O. Reg. 394/07, s. 17.

OPERATION AND MAINTENANCE OF VEGETATED FILTER STRIP SYSTEM

Operational requirements

98.21 No person shall permit the discharge of runoff through a vegetated filter strip system to a vegetated filter strip unless,

- (a) the vegetated filter strip has a minimum width of at least six metres;
- (b) the amount of runoff discharged through the vegetated filter strip system is no more than the amount the system was designed to handle; and
- (c) up-slope water has been diverted away from the strip so that it does not enter the strip. O. Reg. 394/07, s. 17.

Limiting access to vegetated filter strip

98.22 (1) No person shall allow livestock, vehicles, motorized snow vehicles or farm equipment to have access to a vegetated filter strip unless,

- (a) there is at least 30 centimetres of unsaturated soil at the surface of the strip at the time of access; and
- (b) the presence of the livestock, vehicle, motorized snow vehicle or farm equipment does not damage the strip. O. Reg. 394/07, s. 17.

(2) In this section,

“motorized snow vehicle” has the same meaning as in the *Motorized Snow Vehicle Act*; (“motoneige”)

“vehicle” has the same meaning as in the *Highway Traffic Act*. (“véhicule”) O. Reg. 394/07, s. 17.

Vegetative cover on vegetated filter strip

98.23 No person shall permit the discharge of runoff through a vegetated filter strip system to a vegetated filter strip unless the strip is covered with a continuous, well-established vegetated cover consisting primarily of perennial grasses, but not including trees.

O. Reg. 394/07, s. 17.

Harvesting or mowing vegetated filter strip

98.24 Subject to section 98.25, the person who owns or controls an agricultural operation where a vegetated filter strip system has been established and is being operated as part of the agricultural operation shall harvest or mow the vegetated filter strip at regular intervals such that the strip continues to effectively intercept and treat the runoff. O. Reg. 394/07, s. 17.

Height of vegetation

98.25 The person who owns or controls an agricultural operation where a vegetated filter strip system has been established and is being operated as part of the agricultural operation shall ensure that the vegetated filter strip is maintained with vegetation with a height of no less than 75 millimetres. O. Reg. 394/07, s. 17.

Inspections

98.26 The person who owns or controls an agricultural operation where a vegetated filter strip system has been established and is being operated as part of the agricultural operation shall inspect the vegetated filter strip system every six months to ensure that all components are functioning effectively and that the design specifications are being maintained. O. Reg. 394/07, s. 17.

Use ceases if not functioning effectively or within specifications

98.27 If a component of a vegetated filter strip system is not functioning effectively or the system's design specifications are not maintained, the person who owns or controls the agricultural operation where the vegetated filter strip system has been established shall discontinue the operation of the system until such time as it is functioning effectively and the design specifications are maintained. O. Reg. 394/07, s. 17.

RECORD KEEPING

Record keeping

98.28 (1) The person who owns or controls the agricultural operation where a vegetated filter strip system has been established and is being operated as part of the agricultural operation shall keep the following records in relation to the establishment and operation of the vegetated filter strip system:

1. The engineering design specifications and the written records referred to in section 98.18.
2. The date, time and description of inspections under section 98.26 and maintenance activity conducted on the system and the name of the person conducting the inspection or undertaking the maintenance activity.
3. A record of any actions taken to ensure that all components of the system are functioning effectively and that the design specifications of the system are being maintained. O. Reg. 394/07, s. 17.

(2) The person who owns or controls the agricultural operation shall maintain the records required under subsection (1) in accordance with section 112 and subsection 113 (1), with necessary modifications. O. Reg. 394/07, s. 17.

(3) The person who owns or controls the agricultural operation shall ensure that the records required under subsection (1) are kept in storage for a period of at least two years,

- (a) from the date of the last use of the vegetated filter strip system, for records of the engineering design specifications and the written records referred to in section 98.18; and
- (b) from the date they were created for all other records referred to in subsection (1). O. Reg. 394/07, s. 17.

PART X CERTIFICATES AND LICENCES

CERTIFICATES

Prescribed nutrient management practices

99. (1) The following are prescribed as management practices for the purposes of this Part:

1. Preparing a nutrient management strategy or nutrient management plan for an agricultural operation.
2. Preparing a NASM plan for a NASM plan area.
3. Acting as a broker if,
 - i. this Regulation requires the generator of the operation from which the broker receives agricultural source materials to have a nutrient management strategy to carry out the operation, or
 - ii. this Regulation requires the operation to which the broker transfers the materials to have a nutrient management plan or NASM plan. O. Reg. 338/09, s. 77.

(2) Paragraphs 1 and 2 of subsection (1) apply whether or not this Regulation requires an approval for the strategy, plan or NASM plan. O. Reg. 338/09, s. 76.

Agricultural operation strategy or plan development certificate

100. (1) No person shall prepare a nutrient management strategy or nutrient management plan for an agricultural operation of which the person is not the owner, the operator or an employee, unless the person holds an agricultural operation strategy or plan development certificate. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 16 (1).

(2) Subject to section 109.1, a Director shall issue an agricultural operation strategy or plan development certificate to an applicant who,

- (a) pays the fee, if any, established by the Minister; and
- (b) satisfies the condition or conditions set out in,
 - (i) subsection (3), in the case of a first-time applicant or an applicant who held an agricultural operation strategy or plan development certificate that has been cancelled or has expired, or
 - (ii) subsection (5), in the case of an applicant who holds an agricultural operation strategy or plan development certificate that has not been suspended or cancelled and has not expired. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 16 (2).

(3) The following conditions apply to an applicant described in subclause (2) (b) (i):

1. The applicant has attended a course, specified by the Director, that deals with preparing nutrient management strategies and plans for agricultural operations, or has alternate qualifications that the Director considers equivalent.
2. The applicant has obtained a passing grade on at least one and not more than three assignments, specified by the Director, that deal with preparing nutrient management strategies and plans for agricultural operations.
3. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purposes of this subsection, that deals with the preparation of nutrient management strategies and plans for agricultural operations.
- 4., 5. REVOKED: O. Reg. 284/13, s. 16 (3).

O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 16 (3).

(4) REVOKED: O. Reg. 284/13, s. 16 (4).

(5) The following condition applies to an applicant described in subclause (2) (b) (ii):

1. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purposes of this subsection, that deals with the preparation of nutrient management strategies and plans for agricultural operations. O. Reg. 338/09, s. 76.

(6) An agricultural operation strategy or plan development certificate expires on the fifth anniversary of the date on which it is issued. O. Reg. 338/09, s. 76.

(7) Despite the amendments made to this section by subsections 16 (2), (3) and (4) of Ontario Regulation 284/13, this section, as it read on October 24, 2013, applies to a person who submitted an application under this section on or before that date. O. Reg. 284/13, s. 16 (5).

Agricultural operation planning certificate

101. (1) No person who owns or operates an agricultural operation for which this Regulation requires a nutrient management strategy or nutrient management plan, and no person who is employed in such an operation, shall prepare a nutrient management strategy or nutrient management plan for the operation unless the person holds an agricultural operation planning certificate or an agricultural operation strategy or plan development certificate. O. Reg. 284/13, s. 17.

(2) Subject to section 109.1, a Director shall issue an agricultural operation planning certificate to an applicant who,

(a) pays the fee, if any, established by the Minister; and

(b) has attended a course, specified by the Director, that deals with preparing nutrient management strategies and plans for agricultural operations, or has alternate qualifications that the Director considers equivalent. O. Reg. 338/09, s. 76.

(3) REVOKED: O. Reg. 848/21, s. 10.

NASM plan development certificate

102. (1) On and after September 18, 2009, no person shall prepare a NASM plan unless the person holds a NASM plan development certificate issued under this section. O. Reg. 338/09, s. 76.

(2) Subject to section 109.1, a Director shall issue a NASM plan development certificate to an applicant who,

(a) pays the fee, if any, established by the Minister; and

(b) satisfies the condition or conditions set out in,

(i) subsection (3), in the case of a first-time applicant or an applicant who held a NASM plan development certificate that has been cancelled or has expired, or

(ii) subsection (4), in the case of an applicant who holds a NASM plan development certificate that has not been suspended or cancelled and has not expired. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 18 (1).

(3) The following conditions apply to an applicant described in subclause (2) (b) (i):

1. The applicant has attended a course, specified by the Director, that deals with preparing NASM plans, or has alternate qualifications that the Director considers equivalent.
2. The applicant has obtained a passing grade on at least one and not more than three assignments, as specified by the Director, that deal with preparing NASM plans, or has alternate qualifications that the Director considers equivalent.
3. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purposes of this subsection, that deals with the preparation of NASM plans. O. Reg. 338/09, s. 76.

(4) The following condition applies to an applicant described in subclause (2) (b) (ii):

1. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purposes of this subsection, that deals with the preparation of NASM plans. O. Reg. 338/09, s. 76.

(5) A NASM plan development certificate expires on the fifth anniversary of the date on which it is issued. O. Reg. 338/09, s. 76.

(6) Despite the amendments made to this section by subsection 18 (1) of Ontario Regulation 284/13, this section, as it read on October 24, 2013, applies to a person who submitted an application under this section on or before that date. O. Reg. 284/13, s. 18 (2).

103. REVOKED: O. Reg. 284/13, s. 19.

Broker certificate

104. (1) No person shall act as a broker in a transaction described in subsection (2) unless,

(a) in the case of an individual,

(i) he or she holds a broker certificate, or

(ii) another individual is his or her authorized agent, holds a broker certificate and complies with subsection (1.1);

(b) in the case of a corporation, an individual is its authorized agent, holds a broker certificate and complies with subsection (1.1). O. Reg. 284/13, s. 20 (1).

(1.1) No person shall act as an authorized agent as described in subclause (1) (a) (ii) or clause (1) (b) unless he or she,

(a) has ongoing and regular involvement in the operational aspects of the principal's broking operation; and

(b) has advised the Director, in writing, of the intention to act as the principal's authorized agent. O. Reg. 284/13, s. 20 (1).

(1.2) If a person holds a broker certificate or has an authorized agent as described in this section, the person's employees and contractors may, on the person's behalf, carry out the activities authorized by the person's or agent's broker certificate. O. Reg. 284/13, s. 20 (1).

(2) Subsection (1) applies to a transaction if,

(a) this Regulation requires the generator of the operation from which the broker in the transaction receives agricultural source materials to have a nutrient management strategy to carry out the operation; or

(b) this Regulation requires the operation to which the broker in the transaction transfers agricultural source materials to have a nutrient management plan or a NASM plan. O. Reg. 338/09, s. 76.

(3) Subsection (1) does not apply to a transaction that involves only non-agricultural source materials. O. Reg. 338/09, s. 76.

(4) Subject to section 109.1, a Director shall issue a broker certificate to an applicant who,

(a) pays the fee, if any, established by the Minister; and

(b) satisfies the condition or conditions set out in,

(i) subsection (5), in the case of a first-time applicant or an applicant who held a broker certificate that has been cancelled or has expired, or

(ii) subsection (6), in the case of an applicant who holds a broker certificate that has not been suspended or cancelled and has not expired. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 20 (2).

(5) The following conditions apply to an applicant described in subclause (4) (b) (i):

1. The applicant has attended a course, specified by the Director, that deals with broking operations, or has alternate qualifications that the Director considers equivalent.

2. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with broking operations. O. Reg. 338/09, s. 76.

(6) The following condition applies to an applicant described in subclause (4) (b) (ii):

1. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with broking operations. O. Reg. 338/09, s. 76.

(7) A broker certificate expires on the fifth anniversary of the date on which it is issued. O. Reg. 338/09, s. 76.

(8) An individual described in subclause (1) (a) (ii) or clause (1) (b) who ceases to be the principal's authorized agent shall, within 15 days after the change, provide written notice of the change to the Director and to the principal. O. Reg. 284/13, s. 20 (3).

(9) Despite the amendments made to this section by subsections 20 (1), (2) and (3) of Ontario Regulation 284/13, this section, as it read on October 24, 2013, applies to a person who submitted an application under this section on or before that date. O. Reg. 284/13, s. 20 (4).

(10) A person who is a corporation's authorized agent on October 24, 2013 is not required to comply with clause (1.1) (a) until October 25, 2014. O. Reg. 284/13, s. 20 (4).

LICENCES

Prescribed materials application business licence

105. (1) No person shall engage in the business of applying prescribed materials to land described in subsection (2) unless,

(a) in the case of an individual,

(i) he or she holds a prescribed materials application business licence, or

(ii) another individual is his or her authorized agent, holds a prescribed materials application business licence and complies with subsection (1.1);

(b) in the case of a corporation, an individual is its authorized agent, holds a prescribed materials application business licence and complies with subsection (1.1). O. Reg. 284/13, s. 21 (1).

(1.1) No person shall act as an authorized agent as described in subclause (1) (a) (ii) or clause (1) (b) unless he or she,

(a) has ongoing and regular involvement in the operational aspects of the principal's business of applying prescribed materials; and

(b) has advised the Director, in writing, of the intention to act as the principal's authorized agent. O. Reg. 284/13, s. 21 (1).

(2) Subsection (1) applies in respect of the land of a farm unit, if this Regulation requires the person who owns or controls the agricultural operation to have a nutrient management plan or a NASM plan. O. Reg. 338/09, s. 76.

(3) Subject to section 109.1, a Director shall issue a prescribed materials application business licence to an applicant who,

(a) pays the fee, if any, established by the Minister; and

(b) satisfies the conditions set out in,

(i) subsection (4), in the case of a first-time applicant or an applicant who held a prescribed materials application licence that has been cancelled or has expired, or

(ii) subsection (5), in the case of an applicant who holds a prescribed materials application licence that has not been suspended or cancelled and has not expired. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 21 (2).

(4) The following conditions apply to an applicant described in subclause (3) (b) (i):

1. The applicant has attended a course, specified by the Director, that deals with the business of applying prescribed materials to land, or has alternate qualifications that the Director considers equivalent.

2. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with the business of applying prescribed materials to land. O. Reg. 338/09, s. 76.

(5) The following condition applies to an applicant described in subclause (3) (b) (ii):

1. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with the business of applying prescribed materials to land. O. Reg. 338/09, s. 76.

(6) A prescribed materials application business licence expires on the fifth anniversary of the date on which it is issued. O. Reg. 338/09, s. 76.

(7) An individual described in subclause (1) (a) (ii) or clause (1) (b) who ceases to be the principal's authorized agent shall, within 15 days after the change, provide written notice of the change to the Director and to the principal. O. Reg. 284/13, s. 21 (3).

(8) Despite the amendments made to this section by subsections 21 (1), (2) and (3) of Ontario Regulation 284/13, this section, as it read on October 24, 2013, applies to a person who submitted an application under this section on or before that date. O. Reg. 284/13, s. 21 (4).

(9) A person who is a corporation's authorized agent on October 24, 2013 is not required to comply with clause (1.1) (a) until October 25, 2014. O. Reg. 284/13, s. 21 (4).

Nutrient application technician licence

106. (1) No person shall apply materials containing nutrients to land in the course of an agricultural operation described in subsection (2) unless he or she holds a nutrient application technician licence. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 22 (1).

(2) Subsection (1) applies in respect of an agricultural operation if,

(a) this Regulation requires the person who owns or controls the operation to have a nutrient management plan or NASM plan; and

(b) the person described in subsection (1) is not an owner, operator or employee of the operation. O. Reg. 338/09, s. 76.

(3) Subject to section 109.1, a Director shall issue a nutrient application technician licence to an applicant who,

(a) pays the fee, if any, established by the Minister; and

(b) satisfies the condition or conditions set out in,

(i) subsection (4), in the case of a first-time applicant or an applicant who held a nutrient application technician licence that has been cancelled or has expired, or

(ii) subsection (5), in the case of an applicant who holds a nutrient application technician licence that has not been suspended or cancelled and has not expired. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 22 (2).

(4) The following conditions apply to an applicant described in subclause (3) (b) (i):

1. The applicant has attended a course, specified by the Director, that deals with the application of prescribed materials to land, or has alternate qualifications that the Director considers equivalent.

2. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with the application of prescribed materials to land. O. Reg. 338/09, s. 76.

(5) The following condition applies to an applicant described in subclause (3) (b) (ii):

1. No earlier than one year before making the application, the applicant has obtained a passing grade on an examination, specified by the Director for the purpose of this subsection, that deals with the application of prescribed materials to land. O. Reg. 338/09, s. 76.

(6) A nutrient application technician licence expires on the fifth anniversary of the date on which it is issued. O. Reg. 338/09, s. 76.

(7) Despite the amendments made to this section by subsection 22 (2) of Ontario Regulation 284/13, this section, as it read on October 24, 2013, applies to a person who submitted an application under this section on or before that date. O. Reg. 284/13, s. 22 (3).

GENERAL

Cancellation of certificates and licences

107. (1) A Director may, by written notice, suspend or cancel a certificate or licence issued under this Part or a predecessor of this Part if,

- (a) the holder of the certificate or licence,
 - (i) contravenes the Act or regulations, or
 - (ii) in the Director's opinion, has demonstrated incompetence or bad faith in carrying out the activity with respect to which the certificate or licence is issued; and
- (b) in the case of cancellation, the Director has given the holder at least 15 days written notice, with reasons, of the intention to cancel the certificate or licence. O. Reg. 338/09, s. 76.

(2) A notice issued under subsection (1) that suspends or cancels a certificate or licence must provide reasons for the suspension or cancellation and set out the procedure for appeals under section 9 of the Act. O. Reg. 338/09, s. 76.

(3) Subsection (1) applies whether the certificate or licence was issued before, on or after September 18, 2009. O. Reg. 338/09, s. 76.

Conditions

108. (1) A certificate or licence issued under this Part or a predecessor of this Part is subject to the conditions that are consented to by the applicant, imposed by a Director under subsection (2) or ordered by the Tribunal. O. Reg. 338/09, s. 76.

(2) The Director may issue a certificate or licence subject to any conditions that he or she considers appropriate. O. Reg. 338/09, s. 76.

(3) Subsection (1) applies whether the certificate or licence was issued before, on or after September 18, 2009. O. Reg. 338/09, s. 76.

Amendment of certificates and licences

109. (1) A Director may, by written notice, amend a certificate or licence issued under this Part or a predecessor of this Part if he or she considers it appropriate to do so. O. Reg. 338/09, s. 76.

(2) A notice issued under subsection (1) must provide reasons for the amendment and set out the procedure for appeals under section 9 of the Act. O. Reg. 338/09, s. 76.

(3) Subsection (1) applies whether the certificate or licence was issued before, on or after September 18, 2009. O. Reg. 338/09, s. 76.

Refusal to issue certificate or licence

109.1 The Director may refuse to issue a certificate or licence under this Part if, in his or her opinion,

- (a) the applicant is or has been in contravention of the Act or this Regulation, or is or has been in breach of a condition of another certificate or licence issued under this Part;
- (b) the applicant is not competent to carry on the activity that would be authorized by the certificate or licence; or
- (c) the past conduct of the applicant affords reasonable grounds for belief that the activity that would be authorized by the certificate or licence will not be carried on with honesty and integrity. O. Reg. 338/09, s. 76; O. Reg. 284/13, s. 23.

EXTENSION OF LICENCES AND CERTIFICATES DUE TO CORONAVIRUS (COVID-19)

Extension of licences and certificates

109.2 (1) This section applies to any licence or certificate issued under this Part if the fifth anniversary of the day it was issued falls on or after the day this section comes into force but before April 30, 2021. O. Reg. 148/20, s. 1.

(2) Despite any provision in this Part, a licence or certificate referred to in subsection (1) shall not expire on the fifth anniversary of the day it was issued but shall expire on April 30, 2021. O. Reg. 148/20, s. 1.

(3) If the holder of a licence or certificate referred to in subsection (1) applies for a renewal of that licence or certificate before its expiry under subsection (2), any requirement under this Part that the applicant obtain a passing grade on an examination no earlier than one year before making the application shall be considered satisfied if the applicant obtained the passing grade on the examination before the beginning of that one year period but no earlier than one year before the day this section comes into force.

O. Reg. 148/20, s. 1.

PART XI RECORDS

Duty to keep records

110. (1) Every owner or operator of an agricultural operation for which this Regulation requires a nutrient management strategy, a nutrient management plan or a NASM plan shall keep the following records:

1. Copies of the strategy, plan or NASM plan.
2. The written statement required under clause 28.1 (b).
3. The site characterization, if any, that Part VIII requires for the farm unit on which the operation is carried out. O. Reg. 338/09, s. 78; O. Reg. 204/19, s. 12.

(2) If Category 1 NASM is applied to land in the course of an agricultural operation but this Regulation does not require the owner or operator to have a NASM plan, the owner or operator shall keep records,

- (a) identifying the NASM application area;
- (b) stating the type, quantities and source of NASM that was applied, and the dates on which it was applied; and
- (c) stating the results of any sampling and analysis required by this Regulation. O. Reg. 338/09, s. 78.

Copy of licences

111. In addition to section 110, a person who holds a certificate or licence under Part X shall keep a copy of it at the location of the person's operation or business. O. Reg. 267/03, s. 111.

Form of records

112. A person who is required to keep records under section 110 shall,

- (a) keep them by means of paper copies, mechanical, electronic or other devices;
- (b) take adequate precautions, appropriate to the means used, to guard against the risk of falsification or alteration of the information in the records; and
- (c) provides a means for making the information in the records available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records. O. Reg. 267/03, s. 112.

Location and time for storage

113. (1) A person who is required to keep records under section 110 shall ensure that the records are stored,

- (a) at the location of the operation; or
- (b) at another location that is accessible to the operator of the operation at all times, if it is not practical to comply with clause (a). O. Reg. 338/09, s. 79.

(2) The person shall ensure that the records are kept in storage,

- (a) in the case of records relating to a nutrient management strategy, plan or NASM plan, for at least two years after the day the strategy, plan or NASM plan ceases to be in force;
- (a.1) in the case of the written statement required under clause 28.1 (b), for at least two years after the statement is made;
- (b) in the case of records relating to a permanent nutrient storage facility that was used to store NASM, for at least five years after NASM was last stored there;

- (c) in the case of records relating to a permanent nutrient storage facility that was used to store ASM, for at least two years after ASM was last stored there;
- (d) in the case of records described in subsection 110 (2), for a period of at least two years after the day the record is created.
O. Reg. 338/09, s. 79; O. Reg. 204/19, s. 13.

Identification numbers

114. (1) If it is necessary, for the purposes of this Regulation, to distinguish between two or more nutrient management strategies or NASM plans, a Director shall assign each of them a unique identification number and advise the person by or for whom the strategy or NASM plan was prepared of the identification number. O. Reg. 338/09, s. 79.

(2) If a nutrient management strategy or NASM plan provides for the use of another nutrient management strategy or NASM plan, or for the use of a nutrient management plan, for the use or disposal of some or all of the nutrients dealt with by the first-named strategy or NASM plan,

- (a) the person by or for whom the first-named strategy or NASM plan was prepared shall,
 - (i) keep a record of its identification number assigned under subsection (1), and
 - (ii) give notice of the number to the person by or for whom the other strategy or NASM plan or the nutrient management plan was prepared; and
- (b) the person who receives the notice shall keep a record of the number. O. Reg. 338/09, s. 79.

PART XII LOCAL ADVISORY COMMITTEES

Definitions

115. In this Part,

“committee” means a local advisory committee. O. Reg. 267/03, s. 115.

Establishment of committees

116. (1) A council of a municipality may, by by-law, establish a committee to address nutrient management issues in the municipality. O. Reg. 267/03, s. 116 (1).

(2) The council shall appoint the members of the committee who shall consist of not fewer than five persons. O. Reg. 267/03, s. 116 (2).

(3) The members of the committee shall be residents of the municipality and the council shall ensure that they have knowledge of nutrient management practices. O. Reg. 267/03, s. 116 (3).

(4) A majority of the members of the committee shall be persons who are farmers or who represent an agricultural operation located in the municipality. O. Reg. 267/03, s. 116 (4).

(5) At least one member of the committee shall be a person who is not a farmer or a representative of an agricultural operation. O. Reg. 267/03, s. 116 (5).

(6) At least one member of the committee shall be a member of the council or an employee of the municipality. O. Reg. 267/03, s. 116 (6).

Operation of committees

117. (1) The council of the municipality that establishes a committee shall appoint a chair and one or more vice-chairs from among the members of the committee. O. Reg. 267/03, s. 117 (1).

(2) The committee shall adopt rules of procedure to facilitate its activities. O. Reg. 511/05, s. 66.

(3) The members of the committee shall follow the rules of procedure that apply to the activities of the committee. O. Reg. 267/03, s. 117 (3).

Mediation

118. (1) A member of a committee may mediate disputes in connection with the following matters that involve the management of materials containing nutrients on lands if the council of the municipality that established the committee is satisfied that the member has knowledge of mediation practices:

1. Matters that a resident of the municipality reports to the municipality and that do not amount to a contravention of the Act, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Safe Drinking Water Act, 2002*.
2. Matters that are reported to the Minister of Agriculture, Food and Rural Affairs or the Minister of the Environment and that either of those Ministers refers to the committee. O. Reg. 267/03, s. 118 (1); O. Reg. 511/05, s. 67.

(2) The Minister of Agriculture, Food and Rural Affairs and the Minister of the Environment may delegate, to persons whom they authorize, their power under paragraph 2 of subsection (1) to refer matters to a committee. O. Reg. 267/03, s. 118 (2); O. Reg. 511/05, s. 67.

(3) The Minister of Agriculture, Food and Rural Affairs, the Minister of the Environment and their authorized delegates may use their statutory discretion when referring matters to a committee. O. Reg. 267/03, s. 118 (3); O. Reg. 511/05, s. 67.

(4) If a member of a committee who is assigned to mediate a matter in dispute under this section has, either on his or her own behalf or while acting for, by, with or through another, has a pecuniary interest in the matter, whether direct or indirect as described in section 2 of the *Municipal Conflict of Interest Act*, the member,

- (a) shall, before beginning to mediate the dispute, disclose to all parties the interest and the general nature of it; and
 - (b) shall not proceed to mediate any question in respect of the matter unless all parties agree to having the mediation proceed.
- O. Reg. 267/03, s. 118 (4).

(5) If a Director or a provincial officer advises a member of a committee who is mediating a matter in dispute under this section that the matter involves a contravention of the Act, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Safe Drinking Water Act, 2002*, the member shall suspend the mediation until the alleged contraventions have been dealt with in accordance with the applicable legislation. O. Reg. 267/03, s. 118 (5).

(6) Subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable legislation, a member of a committee who conducts a mediation under this section shall do so on a confidential basis. O. Reg. 267/03, s. 118 (6).

(7) A member of a committee who acts as a mediator of a dispute under this section shall not provide advice that might be regarded as legal advice to any of the parties to the dispute or their representatives. O. Reg. 267/03, s. 118 (7).

(8) The outcome of a mediation of a dispute under this section 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 containing nutrients. O. Reg. 267/03, s. 118 (8).

Education

119. A committee or its members may engage in activities designed to educate people about matters related to the management of materials containing nutrients and for that purpose may consult with representatives of the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment regarding the presentation and content of educational seminars. O. Reg. 267/03, s. 119; O. Reg. 511/05, s. 67.

Consultation

120. (1) In carrying out its powers or duties, subject to subsection (2), a committee or its members may consult with representatives of the municipality that established the committee with respect to issues related to the management of materials containing nutrients, including site plan or building permit issues. O. Reg. 267/03, s. 120 (1).

(2) A committee or its members shall not participate in any way in evaluating, approving or endorsing nutrient management strategies, plans or NASM plans. O. Reg. 267/03, s. 120 (2); O. Reg. 338/09, s. 80.

Reports to clerk of municipality

121. The by-law of the municipality that establishes a committee may require the chair of the committee to provide reports about the committee's activities to the clerk of the municipality at the times that the by-law specifies. O. Reg. 267/03, s. 121.

122. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THE ENGLISH VERSION OF THIS REGULATION). O. Reg. 267/03, s. 122.

SCHEDULE 1 OFF-FARM ANAEROBIC DIGESTION MATERIAL

1. The materials listed for the purposes of this Schedule are the materials listed in Schedule 1 of the document of the Ministry of Environment, Conservation and Parks and the Ministry of Agriculture, Food and Rural Affairs entitled "Off-Farm Anaerobic Digestion Materials Protocol" originally dated July 1, 2021, as amended from time to time.

O. Reg. 508/21, s. 31.

SCHEDULE 2A OFF-FARM ANAEROBIC DIGESTION MATERIALS, LIMITED

1. The materials listed for the purposes of this Schedule are the materials listed in Schedule 2A of the document of the Ministry of Environment, Conservation and Parks and the Ministry of Agriculture, Food and Rural Affairs entitled "Off-Farm Anaerobic Digestion Materials Protocol" originally dated July 1, 2021, as amended from time to time.

O. Reg. 508/21, s. 31.

SCHEDULE 2B OFF-FARM ANAEROBIC DIGESTION MATERIALS, FURTHER LIMITED

1. The materials listed for the purposes of this Schedule are the materials listed in Schedule 2B of the document of the Ministry of Environment, Conservation and Parks and the Ministry of Agriculture, Food and Rural Affairs entitled "Off-Farm Anaerobic Digestion Materials Protocol" originally dated July 1, 2021, as amended from time to time.

O. Reg. 508/21, s. 31.

SCHEDULE 3 MATERIALS NOT ACCEPTABLE FOR USE IN A REGULATED MIXED ANAEROBIC DIGESTION FACILITY

1. The materials listed for the purposes of this Schedule are the materials listed in Schedule 3 of the document of the Ministry of Environment, Conservation and Parks and the Ministry of Agriculture, Food and Rural Affairs entitled "Off-Farm Anaerobic Digestion Materials Protocol" originally dated July 1, 2021, as amended from time to time.

O. Reg. 508/21, s. 31.

SCHEDULE 4 CATEGORIES OF NON-AGRICULTURAL SOURCE MATERIALS

TABLE 1 CATEGORY 1 NASM

Item	Column 1 Materials	Column 2 Additional parameters to be analyzed
1.	Culled fruit and vegetables, other than cole crops and onions, but only if the fruits and vegetables have been processed without any use of chemicals, other than food grade chemicals used only to clean the food, the processing equipment and the surrounding area.	No additional analysis required.
2.	Peels and pomace produced from fruits and vegetables, other than cole crops and onions, but only if the fruits and vegetables have been processed without any use of chemicals, other than food grade chemicals used only to clean the food, the processing equipment and the surrounding area.	
3.	Leaf and yard waste that has not been composted.	
4.	Organic waste matter derived from the drying, cleaning and processing of field and nut crops.	
5.	Waste products from animal feeds listed in Classes 1, 2, 3, 4 and 5 of Part 1 of Schedule IV to the Feeds Regulations, 1983 (SOR/83-593) made under the <i>Feeds Act</i> (Canada), excluding any materials that contain an animal product.	
6.	Aquatic plants.	
7.	Organic waste matter derived from the production of ethanol (plant based mash).	
8.	Manure from non-farm herbivorous animals. including associated bedding materials.	
9.	Runoff from animal yards that are used only by non-farm herbivorous animals.	
10.	Runoff from permanent nutrient storage facilities containing only manure from non-farm herbivorous animals, including associated bedding materials.	
11.	Washwaters from a building or structure, or part of a building or structure, that houses only non-farm herbivorous animals.	
12.	Any mixture of materials listed in Items 1 to 11.	
13.	Anything listed in Items 1 to 12 that is mixed with agricultural source materials, commercial fertilizer, or compost that meets the requirements for Category AA or A compost in Part II of the Compost Standards.	

TABLE 2
CATEGORY 2 NASM

Item	Column 1 Materials	Column 2 Additional parameters to be analyzed
1.	Leaf and yard waste that has been composted, but does not meet the requirements for Category AA or A compost in Part II of the Compost Standards.	Only if required under section 98.0.16.
2.	Organic waste matter that contains no meat or fish and is derived from food processing at, (a) a bakery, (b) a confectionery processing facility, (c) a cereal and grain processing facility, (d) a snack food manufacturing facility, or (e) a brewery or distillery.	Only if required under section 98.0.16.

3.	Washwater, including materials containing food-grade cleaners, from cleaning the processing equipment and the surrounding area of, (a) a bakery, (b) a confectionery processing facility, (c) a cereal and grain processing facility, (d) a snack food manufacturing facility, or (e) a brewery or distillery.	Only if required under section 98.0.16.
4.	Culled cole crops and onions, and peels and pomace from cole crops and onions, but only if the cole crops and onions have been processed without any use of chemicals, other than food-grade chemicals used only to clean the food, the processing equipment and the surrounding area.	Only if required under section 98.0.16.
5.	Fruit and vegetables, and peels and pomace from fruit and vegetables, that have been processed with the use of chemicals other than as described in Item 4.	Sodium; other parameters only if required under section 98.0.16.
6.	Fruit and vegetable processing water that contains no chemicals other than food-grade chemicals.	Sodium; other parameters only if required under section 98.0.16.
7.	Any mixture of materials listed in Items 1 to 6.	As required under section 98.0.16.
8.	Anything listed in Items 1 to 7 that is mixed with agricultural source materials, Category 1 NASM, commercial fertilizer, or compost that meets the requirements for Category AA or A compost in Part II of the Compost Standards.	As required under section 98.0.16.

TABLE 3
CATEGORY 3 NASM

Item	Column 1 Materials	Column 2 Additional parameters to be analyzed
1.	Washwater, including materials containing food-grade cleaners, from cleaning the processing equipment and the surrounding area in a facility for processing, (a) meat, (b) eggs, or (c) dairy products.	Fats, oils and grease (FOG) and sodium; other parameters only if required under section 98.0.16.
2.	Paunch manure.	Only if required under section 98.0.16.
3.	Organic waste matter derived from the production of biodiesel.	Only if required under section 98.0.16.
4.	Organic waste matter from grease traps and interceptors.	FOG and sodium; other parameters only if required under section 98.0.16.
5.	Organic waste matter produced in a dissolved air flotation process used for the treatment of wastewater from food or feed processing or preparation facilities.	FOG and sodium; other parameters only if required under section 98.0.16.
6.	Waste products from animal feeds listed in Classes 1, 2, 3, 4 and 5 of Part 1 of Schedule IV to the Feeds Regulations, 1983 (SOR/83-593) made under the <i>Feeds Act</i> (Canada) that may contain an animal product.	Only if required under section 98.0.16.
7.	Organic waste matter from the processing of fish.	FOG; other parameters only if required under section 98.0.16.

8.	Washwater, including materials containing food-grade cleaners, from cleaning the processing equipment and the surrounding area in a fish processing facility.	Only if required under section 98.0.16.
9.	Cooked pet food manufacturing waste.	FOG; other parameters only if required under section 98.0.16.
10.	Pulp and paper biosolids.	Boron; other parameters only if required under section 98.0.16.
11.	Sewage biosolids or any other material, other than untreated septage, that contains human body waste or results from the processing of materials that include sewage biosolids or human body waste.	Only if required under section 98.0.16.
11.1	Compost that meets the requirements for Category B compost in Part II of the Compost Standards, other than leaf and yard waste described in Item 1 of Table 2.	Sodium; other parameters only if required under section 98.0.16.
12.	Any NASM that is not listed in Table 1 or 2.	As required under section 98.0.16.
13.	Any mixture of materials listed in Items 1 to 12.	As required under section 98.0.16.
14.	Anything listed in Items 1 to 13 that is mixed with agricultural source materials, Category 1 or Category 2 NASM, commercial fertilizer, compost that meets the requirements for Category AA or A compost in Part II of the Compost Standards, or any other nutrient.	As required under section 98.0.16.

O. Reg. 338/09, s. 84; O. Reg. 284/12, s. 6; O. Reg. 204/19, s. 14.

SCHEDULE 5
REGULATED METAL CONTENT OF NASM

TABLE 1 — CM1 NASM

Item	Column 1 Regulated metal	Column 2 Concentration in aqueous material (containing less than 1% total solids, wet weight), expressed as mg per litre	Column 3 Concentration in non-aqueous material (containing 1% or more total solids, wet weight), expressed as mg per kg of total solids, dry weight
1.	Arsenic	0.13	13
2.	Cadmium	0.03	3
3.	Cobalt	0.34	34
4.	Chromium	2.1	210
5.	Copper	1.0	100
6.	Lead	1.5	150
7.	Mercury	0.008	0.8
8.	Molybdenum	0.05	5
9.	Nickel	0.62	62
10.	Selenium	0.02	2
11.	Zinc	5.0	500

TABLE 2 — CM2 NASM

Item	Column 1 Regulated metal	Column 2 Concentration in aqueous material (containing less than 1% total solids, wet weight), expressed as mg per litre	Column 3 Concentration in non-aqueous material (containing 1% or more total solids, wet weight), expressed as mg per kg of total solids, dry weight
1.	Arsenic	1.7	170
2.	Cadmium	0.34	34
3.	Cobalt	3.4	340
4.	Chromium	28.0	2,800
5.	Copper	17.0	1,700
6.	Lead	11.0	1,100
7.	Mercury	0.11	11
8.	Molybdenum	0.94	94
9.	Nickel	4.2	420
10.	Selenium	0.34	34
11.	Zinc	42.0	4,200

O. Reg. 338/09, s. 84.

SCHEDULE 6
PATHOGEN CONTENT OF NASM

TABLE 1 — CP1 NASM THAT IS NOT SEWAGE BIOSOLIDS AND DOES NOT CONTAIN HUMAN BODY WASTE

Item	Column 1 Pathogen	Column 2 Level in aqueous material (containing less than 1 % total solids, wet weight)	Column 3 Level in non-aqueous material (containing 1% or more total solids, wet weight)
1.	E. coli	1,000 CFU per 100 ml	1,000 CFU per gram of total solids, dry weight
2.	Salmonella	3 CFU or MPN per 100 ml	3 CFU or MPN per 4 grams of total solids, dry weight
3.	Giardia	No detectable level in 100 ml	No detectable level in 4 grams of total solids, dry weight
4.	Cryptosporidium	No detectable level in 100 ml	No detectable level in 4 grams of total solids, dry weight

TABLE 2 — CP1 NASM THAT IS SEWAGE BIOSOLIDS OR CONTAINS HUMAN BODY WASTE

Item	Column 1 Pathogen	Column 2 Level in aqueous material (containing less than 1% total solids, wet weight)	Column 3 Level in non-aqueous material (containing 1% or more total solids, wet weight)
1.	E. coli	1,000 CFU per 100 ml	1,000 CFU per gram of total solids, dry weight

2.	Salmonella	3 CFU or MPN per 100 ml	3 CFU or MPN per 4 grams of total solids, dry weight
3.	Viable Helminth ova	No detectable level in 100 ml	No detectable level in 4 grams of total solids, dry weight
4.	Total culturable enteric virus	No detectable level in 100 ml	No detectable level in 4 grams of total solids, dry weight

TABLE 3 — CP2 NASM

Item	Column 1 Pathogen	Column 2 Geometric mean of samples of aqueous material (containing less than 1% total solids, wet weight) taken during the 4 months before transfer date	Column 3 Geometric mean of samples of non-aqueous material (containing 1% or more total solids, wet weight) taken during the 4 months before transfer date
1.	E. coli	2 million CFU per 100 ml	2 million CFU per gram of total solids, dry weight

O. Reg. 338/09, s. 84.

Français