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## Nutrient Management Act, 2002

### ONTARIO REGULATION 106/09

#### DISPOSAL OF DEAD FARM ANIMALS

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#### **PART I**

#### **GENERAL**

#### **INTERPRETATION**

##### **Interpretation**

**1.** (1) In this Regulation,

“approved waste disposal site” means a waste disposal site that is operating under an environmental compliance approval that permits the site to dispose of dead animals; (“lieu d’élimination des déchets autorisé”)

“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”)

“cold storage” means storage in a location that has a continuous temperature of 4 degrees Celsius or less; (“entreposage frigorifique”)

“collector” means a licensed collector under Ontario Regulation 105/09 (Disposal of Deadstock) made under the *Food Safety and Quality Act, 2001*; (“ramasseur”)

“common collection point” means a common collection point designated under subsection 20 (2); (“point de ramassage commun”)

“composting” means the treatment of organic matter through aerobic decomposition by bacterial action to produce regulated compost; (“compostage”)

“composting material” means a mixture composed entirely of dead farm animals and substrate that is undergoing composting; (“matières de compostage”)

“dead farm animal” means all or part of a dead animal that satisfies the criteria set out in section 2 and that an operator is required to dispose of under this Regulation; (“cadavre d’animal d’élevage”)

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

“farm” means a registered parcel of land on which one operator carries out a farm operation; (“ferme”)

“farm operation” means an agricultural operation where at least one animal described in section 2 is bred, produced, raised, kept or boarded as described in that section; (“exploitation d’élevage de bétail”)

“flow path”, in relation to a burial pit, composting disposal site or disposal vessel, means a surface channel or depression that conducts liquids away from the pit, site or vessel; (“voie d’écoulement”)

“frozen soil” means soil that is consolidated by the presence of frozen moisture in the soil, in any layer with a minimum thickness of five centimetres, where the layer is located within the top 15 centimetres of the soil; (“sol gelé”)

“frozen storage” means storage in a location that has a continuous temperature that is sufficient to maintain the dead farm animal in a frozen solid state; (“entreposage congelé”)

“highway” has the same meaning as in the *Highway Traffic Act*; (“voie publique”)

“hydrologic soil group AA” means a soil with rapid infiltration rates, namely hydrologic soil group A within the meaning of the Ministry publication “Drainage Guide for Ontario”, dated 2007, as amended from time to time, that has a depth of less than 0.9 metres to the uppermost identified bedrock layer; (“groupe hydrologique de sols AA”)

“in-vessel composting” means a method of composting in which material undergoes composting in a structure that is designed to maintain optimal aeration and temperature conditions during composting by using mechanical turning and is designed, or is enclosed within a building or structure designed, to prevent the entry of scavengers, insects, rodents and other pests; (“compostage en cuve”)

“livestock housing facility” means any building or structure on a farm whose main purpose is housing a farm animal described in section 2; (“lieu d’hébergement du bétail”)

“operator” means the person who owns or controls a farm operation; (“exploitant”)

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

“outdoor confinement area” means an enclosure for one or more animals described in section 2 that,

- (a) is composed of fences, pens, corrals or similar structures,
- (b) may contain a shelter to protect animals from the wind or a shelter with a roof that has an area of less than 20 square metres,
- (c) contains no roof, other than one described in clause (b),
- (d) has feeding or watering equipment that is used to feed or water the animals, and
- (e) has no grazing or foraging vegetation, or has grazing and foraging vegetation that provides less than 50 per cent of the dry matter intake for animals in the enclosure; (“zone de confinement extérieure”)

“post mortem activity” means a post mortem examination, an investigation or a loss adjustment; (“activité post mortem”)

“poultry” means the birds described in paragraph 3 of section 2, and their hybrids; (“volaille”)

“regulated compost” means the product derived from composting material that undergoes composting in accordance with this Regulation and that is regulated compost under the requirements set out in section 16; (“compost 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”)

“surface water” means,

- (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,

but does not include,

- (d) grassed waterways,
- (e) temporary channels for surface drainage, such as furrows or shallow channels that can be tilled and driven through,
- (f) rock chutes and spillways,
- (g) roadside ditches that do not contain a continuous or intermittent stream,
- (h) temporarily ponded areas on land that is normally used in an agricultural operation,
- (i) dugout ponds, and
- (j) 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; ("eau de surface")

"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 land 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")

"well" includes a gas well, oil well, unused well, test well and water well. ("puits") O. Reg. 106/09, s. 1 (1); O. Reg. 235/11, s. 1.

(2) A reference in this Regulation to land that has an "industrial or parkland use" means land if the land or any building on that land is used for an industrial or parkland purpose, including, without being limited to,

- (a) for an enterprise or activity that involves assembling, fabrication, manufacturing, processing, producing, storing, warehousing or distributing goods or raw materials;
- (b) as a public park or conservation area;
- (c) for outdoor sports or recreational activities;
- (d) as a day camp; or
- (e) for outdoor gatherings for civic, religious or social purposes. O. Reg. 106/09, s. 1 (2).

(3) A reference in this Regulation to land that has a "commercial, community or institutional use" means land if the land or any building on that land is used for a commercial, community or institutional use, including without being limited to,

- (a) for an enterprise or activity that involves the exchange of goods or services, including the provision of personal services;
- (b) as an office building;
- (c) as a hotel, motel, hostel or similar type of accommodation;
- (d) as an overnight camp or overnight campgrounds;
- (e) for indoor recreational or sporting activities;
- (f) for indoor gatherings for civic, religious or social purposes;
- (g) for indoor performing arts activities;
- (h) as a railway station, airport passenger terminal or other embarkation or debarkation point for travellers;
- (i) as a day care centre;
- (j) for educational purposes, including as a school, college, university, private career college or an associated residence;
- (k) a health care facility; or

(l) a penitentiary, jail or other place of custody or detention. O. Reg. 106/09, s. 1 (3).

(4) A reference in this Regulation to a residential structure means a structure that is used as a residence, including a mobile home or a seasonal home, but not including a residential building that is in a residential area. O. Reg. 106/09, s. 1 (4).

#### **Farm animals**

**2.** This Regulation applies with respect to the following farm animals and to their hybrids, if they are bred, produced, raised or kept by an operator for the production of food or animal products or as a pet or for the operator's personal use, or boarded by an operator for another person:

1. Alpacas, bison, cattle, deer, elk, goats, llamas, sheep and yaks.
2. Pigs and other porcine animals.
3. Chickens, turkeys, geese, ducks, guinea fowl, quails, pigeons, pheasants and partridges.
4. Ratites.
5. Horses, ponies and donkeys.
6. Rabbits, other than rabbits kept as pets.
7. Fur-bearing animals. O. Reg. 106/09, s. 2.

## **PART II**

### **GENERAL RULES FOR THE DISPOSAL OF DEAD FARM ANIMALS**

#### **Operator's duty**

**3.** (1) Every operator shall, in accordance with the requirements of this Regulation, dispose of a farm animal that dies on a farm used for his or her farm operation if,

- (a) the farm animal is an animal to which this Regulation applies under section 2; and
- (b) the animal was domesticated or captive and before its death was normally kept on the farm or had recently arrived on the farm to be kept there. O. Reg. 106/09, s. 3 (1).

(2) Despite subsection (1), an operator is not required to dispose of an animal described in that subsection in accordance with this Regulation if the animal is disposed of under,

- (a) the *Safe Food for Canadians Act* (Canada) or the *Safe Food for Canadians Regulations* (Canada);
- (b) the *Health of Animals Act* (Canada);
- (c) the *Health Protection and Promotion Act*;
- (d) Ontario Regulation 31/05 (Meat) made under the *Food Safety and Quality Act, 2001*; or
- (e) Ontario Regulation 222/05 (General) made under the *Food Safety and Quality Act, 2001*. O. Reg. 106/09, s. 3 (2); O. Reg. 721/20, s. 1.

(3) For greater certainty, when an animal described in subsection (1) is slaughtered by an operator for consumption by him or her or by his or her immediate family, the operator is responsible for ensuring that all parts of the dead animal that are not intended for consumption or are unfit to be consumed are disposed of in accordance with this Regulation, unless subsection (2) applies.

O. Reg. 106/09, s. 3 (3).

(4) If an operator, with the prior written consent of the owner of a registered parcel of land, places a dead farm animal for disposal on land he or she does not own and subsequently the operator does not fulfil an obligation he or she is placed under this Regulation in respect of the disposal, the owner of the land is required to perform the operator's obligations under this Regulation in respect of the disposal. O. Reg. 106/09, s. 3 (4).

#### **General rule — 48 hours for disposal**

**4.** A dead farm animal must be disposed of by a method set out in section 8 within 48 hours of its death. O. Reg. 106/09, s. 4.

**Exception — immediate disposal**

5. Despite section 4 and any other provision of this Regulation except section 6, a dead farm animal that begins to putrefy must be disposed of immediately. O. Reg. 106/09, s. 5.

**Exception — storage for post mortem activities**

6. (1) Despite section 4, an operator may hold a dead farm animal following its death for up to seven days, even if it begins to putrefy, for the purposes of a post mortem activity if,

- (a) someone with the legal authority to require that a post mortem activity be performed, informs the operator within 48 hours of the animal's death that he or she requires that the activity be performed; or
- (b) the operator intends to have a post mortem activity performed and takes steps within 48 hours of the animal's death to initiate the activity. O. Reg. 106/09, s. 6 (1).

(2) A dead farm animal that is held under this section must be disposed of immediately following the completion of the post mortem activity or within seven days of the date of death, whichever is shorter. O. Reg. 106/09, s. 6 (2).

(3) A veterinarian that receives a dead farm animal for the purposes of a post mortem activity shall dispose of it as if the veterinarian were a custodian under Ontario Regulation 105/09 (Disposal of Deadstock) made under the *Food Safety and Quality Act, 2001*. O. Reg. 106/09, s. 6 (3).

**Exception — cold storage**

7. (1) Despite section 4, an operator may hold a dead farm animal in cold storage for more than 48 hours following its death in accordance with the requirements of this section. O. Reg. 106/09, s. 7 (1).

(2) The animal must be placed in the cold storage or frozen storage within 48 hours of its death. O. Reg. 106/09, s. 7 (2).

(3) The animal may be held,

- (a) in cold storage for no more than 14 days following its death; or
- (b) in frozen storage for no more than 240 days following its death. O. Reg. 106/09, s. 7 (3).

(4) For greater certainty, a dead farm animal may be moved between cold and frozen storage until the end of the 14th day following its death, after which time it may only be stored in frozen storage. O. Reg. 106/09, s. 7 (4).

(5) The animal must not be placed in cold or frozen storage anywhere other than,

- (a) on land that is owned by the operator and is used by the operator for carrying out an agricultural operation, including but not limited to the farm where the animal died; or
- (b) if the animal died on land that is not owned by the operator but that is used by the operator for carrying out a farm operation, on that land with the prior written consent of the owner of the land. O. Reg. 106/09, s. 7 (5).

(6) The animal must be stored in a manner that,

- (a) contains any liquids that leak from the animal and prevents the liquids from coming into contact with the ground;
- (b) protects it from scavengers, insects, rodents and other pests; and
- (c) conceals it from public view. O. Reg. 106/09, s. 7 (6).

(7) If there are any signs that liquid from a stored animal is leaking onto the ground, the operator must immediately contain the leakage and take all reasonable steps to prevent further leakage. O. Reg. 106/09, s. 7 (7).

(8) An operator must immediately dispose of a dead farm animal that has been held in cold or frozen storage when he or she permanently removes the animal from the storage and, in any event, no later than the end of the 240-day period that follows the animal's death. O. Reg. 106/09, s. 7 (8).

(9) Despite subsection (8) and sections 4 and 6, a post mortem activity may be performed on a dead farm animal immediately after it is permanently removed from cold or frozen storage, but the animal must be disposed of immediately after the post mortem activity is completed. O. Reg. 106/09, s. 7 (9).

### PART III DISPOSAL OPTIONS

#### Disposal options

**8.** An operator who is required to dispose of a dead farm animal shall, in accordance with the relevant requirements set out in this Part, dispose of the dead farm animal by,

- (a) burying it;
- (b) incinerating it;
- (c) composting it;
- (d) depositing it in a disposal vessel;
- (e) using the services of a collector;
- (f) delivering it to an anaerobic digester that is,
  - (i) approved and operated under the requirements of Ontario Regulation 267/03 (General) made under the Act, or
  - (ii) operating under an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*, as long as the requirements of sections 98.11 and 98.12 of Ontario Regulation 267/03 are also met;
- (g) delivering it to an approved waste disposal site;
- (h) delivering it to a licensed disposal facility with the meaning of Ontario Regulation 105/09 (Disposal of Deadstock) made under the *Food Safety and Quality Act, 2001*; or
- (i) delivering it to a licensed veterinarian for purposes of a post mortem activity and disposal by the veterinarian. O. Reg. 106/09, s. 8; O. Reg. 235/11, s. 2.

#### General location rules for burial, incineration, disposal vessel

**9.** An operator shall not dispose of a dead farm animal by burying it, incinerating it or depositing it in a disposal vessel unless the disposal takes place,

- (a) on land that is owned by the operator, and on which no agricultural operation is carried on other than an agricultural operation operated by the operator, including, without being limited to, the farm where the animal died; or
- (b) on the farm where the animal died, if,
  - (i) the operator does not own the land but carries on a farm operation on the land,
  - (ii) no other operator carries on a farm operation on the land, and
  - (iii) the person who owns the land gives his or her prior written consent to the disposal. O. Reg. 106/09, s. 9.

### BURIAL

#### Burial requirements

**10.** (1) In addition to complying with section 9, every operator who disposes of a dead farm animal by burying it shall ensure that the requirements set out in this section are satisfied. O. Reg. 106/09, s. 10 (1).

(2) An operator must not bury a dead farm animal anywhere other than in a burial pit that satisfies the following requirements:

1. The burial pit must not be located in organic soil or soil that is hydrologic soil group AA.
2. Every part of the burial pit must be at least,
  - i. 60 metres from every point on the perimeter of another burial pit that is located on the same registered parcel of land and that is open or that has been closed for less than 10 years,

- ii. 30 metres from a highway,
  - iii. 15 metres from lot line of the registered parcel of land on which the burial pit is located,
  - iv. 100 metres from every livestock housing facility, outdoor confinement area and residential structure that is located on land that is not part of the registered parcel of land on which the burial pit is located,
  - v. 100 metres from the lot line of land that has an industrial or parkland use, and
  - vi. 200 metres from the lot line of land in a residential area and from land that has a commercial, community or institutional use.
3. The lowest point of the burial pit must be at least 0.9 metres above the top of the uppermost identified bedrock layer or aquifer.
  4. Every part of the burial pit must be at least six metres from a field drainage tile.
  5. Every part of the burial pit must be at least,
    - i. 50 metres from every part 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,
    - ii. 250 metres from every part of a municipal well, and
    - iii. 100 metres from every part of a well that is not described in subparagraphs i and ii.
  6. There must be a flow path that runs for at least 100 metres measured from the place where it is closest to the perimeter of the burial pit to the top of the bank of the nearest surface water or tile inlet.
  7. A burial pit 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. O. Reg. 106/09, s. 10 (2).
- (3) The maximum weight of dead farm animals that may be buried in one burial pit is 2,500 kilograms, calculated using the weight of each dead farm animal immediately before it was buried in the pit. O. Reg. 106/09, s. 10 (3).
- (4) If any part of the burial pit is less than 15 metres from a field drainage tile, dead farm animals buried in the pit must be placed so that the highest point of the uppermost dead animal in the pit is lower than the lowest point of the nearest field drainage tile. O. Reg. 106/09, s. 10 (4).
- (5) A burial pit is open on the day an operator first buries a dead farm animal in the pit, and the operator must monitor the open pit and ensure that the following rules are complied with until the pit is closed:
1. All dead farm animals placed in the pit must at all times be covered with at least 0.6 metres of soil.
  2. If the pit shows signs of scavenging, the operator must immediately cover any dead farm animals in the pit with the amount of soil, in addition to the soil required under paragraph 1, that will prevent further scavenging.
  3. If liquid overflows from the top of the pit onto the ground, the operator must contain the liquid and take all reasonable steps to prevent further liquid from running out of the top of the pit. O. Reg. 106/09, s. 10 (5).
- (6) Subject to subsection (7), a burial pit must be immediately closed when 120 days have elapsed since the day the pit opened or when 2,500 kilograms of dead farm animals have been buried in the pit, whichever comes first. O. Reg. 106/09, s. 10 (6).
- (7) If the soil is frozen soil, the pit may remain open until the soil has thawed sufficiently so that soil can be mounded as required by subsection (8), at which time the pit must immediately be closed. O. Reg. 106/09, s. 10 (7).
- (8) To close a burial pit, an operator must fill it with enough soil so that the top of the fill soil forms a mound that is higher than the level of the ground at the perimeter of the pit by the greater of,



(a) half of the depth of the pit measured with reference to its lowest point; and

(b) 0.6 metres. O. Reg. 106/09, s. 10 (8).

(9) An operator must monitor the burial pit on a regular basis for one year following the date on which it is closed and ensure that the following rules are complied with:

1. If any part of the soil covering a closed burial pit sinks below the level of the ground at the perimeter of the pit, the operator must rebuild the mound to the level of the ground at the perimeter of the pit.
2. If the pit shows signs of scavenging, the operator must immediately cover any dead animals in the pit with the amount of soil necessary to prevent further scavenging. O. Reg. 106/09, s. 10 (9).

## INCINERATION

### Incineration requirements

**11.** (1) In addition to complying with section 9, every operator who disposes of a dead farm animal by incinerating it shall ensure that the requirements set out in this section are satisfied. O. Reg. 106/09, s. 11 (1).

(2) An operator must not use an incinerator to incinerate dead farm animals unless the incinerator is a type that has been issued a Verification Certificate by ETV Canada Incorporated certifying that it has a secondary chamber that is capable of maintaining the gases that enter it from the primary chamber for,

(a) at least 1 second at a temperature of 1,000 degrees Celsius or higher; or

(b) at least 2 seconds at a temperature of 850 degrees Celsius or higher. O. Reg. 106/09, s. 11 (2).

(3) An incinerator used to incinerate dead farm animals must be located at least,

(a) 30 metres from a highway;

(b) 15 metres from the lot line of the registered parcel of land on which the incinerator is located;

(c) 100 metres from every livestock housing facility, outdoor confinement area and residential structure that is located on land that is not part of the registered parcel of land on which the incinerator is located;

(d) 100 metres from the lot line of land that has an industrial or parkland use; and

(e) 200 metres from the lot line of land in a residential area and from land that has a commercial, community or institutional use. O. Reg. 106/09, s. 11 (3).

(4) The following rules apply to the incineration of a dead farm animal in an incinerator:

1. The burner flame in the secondary chamber must be lit and operating before the burner flame in the primary chamber is lit.

2. At all times during the incineration, the temperature in the secondary chamber must be no less than the minimum temperature specified in the ETV Canada incorporated issued Verification Certificate for the type of incinerator being used.

3. All gases that enter the secondary chamber from the primary chamber must remain in the secondary chamber for,

i. at least 1 second at a temperature of 1,000 degrees Celsius or higher, or

ii. at least 2 seconds at a temperature of 850 degrees Celsius or higher.

4. The dead farm animal must be incinerated until, on a visual inspection, there is no remaining,

i. soft animal tissue,

ii. bones or bone fragments larger than 15 centimetres in any dimension, and

iii. any other animal matter larger than 25 millimetres in any dimension. O. Reg. 106/09, s. 11 (4).

(5) The maximum weight of dead farm animals that may be incinerated on a farm in each 24-hour period is 1,000 kilograms, calculated using the weight of each dead farm animal immediately before it was incinerated. O. Reg. 106/09, s. 11 (5).

(6) If an incinerator has been used to incinerate dead farm animals, that incinerator must not be used to incinerate any other material. O. Reg. 106/09, s. 11 (6).

12. REVOKED: O. Reg. 106/09, s. 32.

## DISPOSAL VESSELS

### Disposal vessel requirements

13. (1) In addition to complying with section 9, every operator who disposes of a dead farm animal by placing it in a disposal vessel shall ensure that the requirements set out in this section are satisfied. O. Reg. 106/09, s. 13 (1).

(2) The dead farm animal must be placed in a disposal vessel that satisfies the following requirements:

1. The interior volume of the disposal vessel must not exceed 10 cubic metres.
2. The vessel must protect the dead farm animal from scavengers, rodents and other pests, other than insects.
3. The top of the vessel must have at least one duct that is large enough to permit small insects, such as flies, to enter the vessel and to permit air to flow in and out of the vessel, and this duct must be located above the surface of the ground and exposed to the air once the hatch is closed.
4. Other than the duct described in paragraph 3, the disposal vessel must be impervious and leakproof when its hatch is closed. O. Reg. 106/09, s. 13 (2).

(3) The following requirements must be satisfied when a disposal vessel is in use:

1. A disposal vessel may be kept above the surface of the ground on a supporting structure, on the surface of the ground or be fully or partially buried, but the duct required under paragraph 3 of subsection (2) must be located above the surface of the ground and exposed to the air at all times.
2. Every point on the exterior of the vessel must be at least,
  - i. 15 metres from every point on the exterior of another vessel,
  - ii. 30 metres from a highway,
  - iii. 15 metres from the lot line of the registered parcel of land on which the disposal vessel is located,
  - iv. 100 metres from every livestock housing facility, outdoor confinement area and residential structure located on land not owned by the person who owns the registered parcel of land on which the vessel is located,
  - v. 100 metres from the lot line of land that has an industrial use or parkland use, and
  - vi. 200 metres away from the lot line of any land in a residential area or from land used for a commercial, community or institutional use.
3. Every point on the exterior of the vessel must be at least 15 metres from a field drainage tile.
4. Every point on the exterior of the vessel must be at least,
  - i. 50 metres from every part 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,
  - ii. 250 metres from every part of a municipal well, and
  - iii. 100 metres from every part of a well that is not described in subparagraphs i and ii.
5. There must be a flow path that runs for at least 100 metres measured from the place where it is closest to the exterior of the vessel to the top of the bank of the nearest surface water or tile inlet.

6. The disposal vessel 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. O. Reg. 106/09, s. 13 (3).
- (4) One of the following requirements must be satisfied with respect to a disposal vessel that is kept above the surface of the ground:
  1. The surface of the ground that is directly below the disposal vessel must be at least 0.9 metres above the top of the uppermost identified aquifer and at least 0.9 metres above the top of the uppermost identified bedrock.
  2. If there is less than 0.9 metres between the surface of the ground directly below the disposal vessel and the top of the uppermost identified aquifer and the top of the uppermost identified bedrock, a pad that satisfies the requirements set out in subsection (6) must be placed on the surface of the ground directly below the disposal vessel. O. Reg. 106/09, s. 13 (4).
- (5) One of the following requirements must be satisfied with respect to a disposal vessel that is kept on the surface of the ground:
  1. The surface of the ground on which the disposal vessel is kept must be at least 0.9 metres above the top of the uppermost identified aquifer and at least 0.9 metres above the top of the uppermost identified bedrock.
  2. If there is less than 0.9 metres between the surface of the ground and the top of the uppermost identified aquifer and the top of the uppermost identified bedrock, the disposal vessel must be placed on a pad that satisfies the requirements set out in subsection (6). O. Reg. 106/09, s. 13 (5).
- (6) The following requirements apply to a pad that is required under subsection (4) or (5):
  1. The pad must be impervious to liquid.
  2. The pad must exceed every point on the perimeter of the footprint of the disposal vessel by at least 0.5 metres. O. Reg. 106/09, s. 13 (6).
- (7) The following requirements must be satisfied with respect to a disposal vessel that is fully or partially buried:
  1. The lowest point of the vessel must be at least 0.9 metres above the top of the uppermost identified aquifer.
  2. The lowest point of the vessel must be at least 0.9 metres above the top of the uppermost identified bedrock. O. Reg. 106/09, s. 13 (7).
- (8) If there is a leak in a disposal vessel, the vessel must be repaired in accordance with the requirements of subsection (9), or closed in accordance with subsection (11). O. Reg. 106/09, s. 13 (8).
- (9) The requirements referred to in subsection (8) are as follows:
  1. Any liquid that is present on the ground or on a pad must be immediately contained.
  2. The vessel must be repaired so that it is leakproof. O. Reg. 106/09, s. 13 (9).
- (10) A disposal vessel must be promptly closed once it is no longer used for the disposal of dead farm animals. O. Reg. 106/09, s. 13 (10).
- (11) To close a disposal vessel, an operator must fill the vessel with soil and close the hatch. O. Reg. 106/09, s. 13 (11).
- (12) In this section,

“footprint”, with respect to a disposal vessel, means the area of the ground directly beneath any part of the vessel. O. Reg. 106/09, s. 13 (12).

## COMPOSTING

### Composting requirements

14. Every operator who disposes of a dead farm animal by composting it shall ensure that the requirements set out in sections 15, 16, 17 and 18 are satisfied. O. Reg. 106/09, s. 14.

**Composting and land**

**15. (1)** An operator shall not dispose of a dead farm animal by composting it unless the disposal takes place,

- (a) on land that is owned by the operator, and on which no agricultural operation is carried on other than an agricultural operation operated by the operator, including, without being limited to, the farm where the animal died;
- (b) on the farm where the animal died, if,
  - (i) the operator does not own the land but carries on a farm operation on the land,
  - (ii) no other operator carries on a farm operation on the land,
  - (iii) the person who owns the land gives the operator his or her prior written consent to the composting and to the spreading of regulated compost that results from the composting on the land, and
  - (iv) no person other than the operator is composting, storing or spreading regulated compost on that farm; or
- (c) on land that is used for carrying out an agricultural operation that is not a farm operation, if,
  - (i) the operator has received prior written consent to the composting and to spreading of regulated compost that results from the composting on the land from both,
    - (A) the person who owns the land, and
    - (B) any person other than the owner of the land who carries on an agricultural operation other than a farm operation on the land, and
  - (ii) no person other than the operator is composting, storing or spreading regulated compost on that land. O. Reg. 106/09, s. 15 (1).

(2) Despite subsection (1), an operator may move regulated compost from the land on which it was composted to land described in the following paragraphs, and, once the regulated compost is moved, may store and must spread the regulated compost on that land:

1. Land that is owned by the operator, and on which no agricultural operation is carried on other than an agricultural operation operated by the operator, including, without being limited to, the farm where the animal died.
2. The farm where the animal died, if,
  - i. the operator does not own the land but carries on a farm operation on the land,
  - ii. no other operator carries on a farm operation on the land,
  - iii. the person who owns the land gives the operator his or her prior written consent to the operator to move regulated compost onto that land and to store and spread regulated compost on that land,
  - iv. no person other than the operator is composting, storing or spreading regulated compost on that farm.
3. Land that is used by the operator for carrying out an agricultural operation that is not a farm operation, if,
  - i. the operator has received prior written consent to move regulated compost onto that land and to the storing and spreading of regulated compost on that land from both,
    - A. the person who owns the land, and
    - B. any person other than the owner of the land who carries on an agricultural operation other than a farm operation on the land, and
  - ii. no person other than the operator is composting, storing or spreading regulated compost on that land. O. Reg. 106/09, s. 15 (2).

**Composting material**

**16. (1)** The composting material must be a mixture that contains only dead farm animals and substrate. O. Reg. 106/09, s. 16 (1).

(2) The substrate must consist only of one or more of the following materials:

1. Sawdust, shavings or chips derived from wood that is clean, uncontaminated and has not been treated in any way or come into contact with any chemical.
2. Straw consisting of dried stalks and leaves of cultivated grain, corn or beans.
3. Clean hay or silage.
4. A mixture composed only of livestock manure (other than poultry manure) and bedding materials described in any or all of paragraphs 1, 2 and 3, if the mixture is at least 30 per cent dry matter, by weight.
5. Poultry litter. O. Reg. 106/09, s. 16 (2).

(3) At the beginning of the composting process, the composting material must be composed of dead farm animals and substrate in the following proportions:

1. In the case of a method of composting other than in-vessel composting, the mixture must contain by volume no more than 25 per cent dead farm animals and no less than 75 per cent substrate.
2. In the case of in-vessel composting, the mixture must contain by volume no more than 50 per cent dead farm animals and no less than 50 per cent substrate. O. Reg. 106/09, s. 16 (3).

(4) If, at any point during the composting process, more dead farm animals are to be added to the composting material, they must first be combined with substrate in accordance with the proportions set out in subsection (3). O. Reg. 106/09, s. 16 (4).

(5) Composting material that is being composted using a method of composting other than in-vessel composting must be covered at all times by,

- (a) at least 0.6 metres of wood chips derived from wood that is clean, uncontaminated and has not been treated in any way or come into contact with any chemical;
- (b) at least 0.6 metres of clean hay or straw;
- (c) at least 0.6 metres of poultry litter, but only if the composting takes place in a fully enclosed structure that has a concrete floor; or
- (d) a non-compostable, retractable covering that,
  - (i) minimizes odours that could attract scavengers, insects, rodents and other pests from escaping the composting material,
  - (ii) prevents scavengers, insects, rodents and other pests from accessing the composting material, and
  - (iii) is free from materials that will contaminate the composting material or the regulated compost. O. Reg. 106/09, s. 16 (5).

(6) Subsection (5) does not apply when composting material is being inspected or otherwise tended to or if new materials are being added to it. O. Reg. 106/09, s. 16 (6).

(7) Composting material must undergo composting until the material,

- (a) contains, on a visual inspection, no remaining,
  - (i) soft animal tissue,
  - (ii) bones or bone fragments larger than 15 centimetres in any dimension, and
  - (iii) any other animal matter larger than 25 millimetres in any dimension; and
- (b) no longer emanates an offensive odour. O. Reg. 106/09, s. 16 (7).

(8) Composting material that satisfies the requirements of subsection (7) is regulated compost for the purposes of this Regulation. O. Reg. 106/09, s. 16 (8).

(9) In this section,

“poultry litter” means a mixture composed only of poultry manure and bedding materials described in any or all of paragraphs 1, 2 and 3 of subsection (2), if the mixture is at least 40 per cent and no more than 60 per cent dry matter, by weight. O. Reg. 106/09, s. 16 (9).

#### **Composting disposal sites**

**17. (1)** In this section,

“composting disposal site” means any discrete place at which composting takes place or where composting material or regulated compost is stored in accordance with section 15; (“lieu d’élimination par compostage”)

“footprint” means,

- (a) in relation to a composting disposal site other than one at which in-vessel composting takes place, an area of ground covered by composting material or regulated compost at the site, and
- (b) in relation to a composting disposal site at which in-vessel composting takes place, the area of the ground directly beneath any part of the vessel. (“superficie au sol”) O. Reg. 106/09, s. 17 (1).

(2) There must not be more than 600 cubic metres of composting material or regulated compost at a composting disposal site. O. Reg. 106/09, s. 17 (2).

(3) A composting disposal site must not have a footprint greater than 600 square metres. O. Reg. 106/09, s. 17 (3).

(4) The following requirements apply to the placement or storage of composting material or regulated compost at a composting disposal site:

1. Composting material and regulated compost must not touch a manure pile.
2. Subject to paragraph 3, composting material or regulated compost must not be placed directly on,
  - i. soil that is hydrologic soil group AA or A,
  - ii. organic soils, or
  - iii. land that is less than 0.9 metres above the top of the uppermost identified bedrock layer or aquifer.
3. Composting material or regulated compost may be placed on an impervious pad that is placed on soil or land described in paragraph 2.
4. There must be a flow path that runs for at least 50 metres measured from the place where it is closest to the composting disposal site to the top of the bank of the nearest surface water or tile inlet.
5. If liquid is escaping beyond the perimeter of a composting disposal site onto the ground, the operator must contain the escaping liquid, and take all reasonable steps to prevent further liquid from running off the site.
6. Every point on the perimeter of the footprint of a composting disposal site must be at least,
  - i. 15 metres from every point on the perimeter of a drilled well that has a depth of 15 metres or more and a watertight casing to a depth of at least six metres,
  - ii. 100 metres from every point on the perimeter of a municipal well, and
  - iii. 30 metres from every point on the perimeter of a well that is not described in subparagraphs i and ii.
7. Every point on the perimeter of the footprint of a composting disposal site must be at least six metres from any point on the surface of the ground that is directly above a field drainage tile.
8. The composting disposal 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.
9. Every point on the perimeter of the footprint of a composting disposal site must be at least,

- i. 100 metres from every point on the perimeter of the footprint of another composting disposal site, except if the composting takes place in a fully enclosed structure, in which case,
  - A. the structure must have a concrete floor,
  - B. there may be no more than three composting disposal sites in the structure, and
  - C. every point on the perimeter of the footprint of each composting disposal site must be at least 0.5 metres from every point on the perimeter of the footprint of the other composting disposal sites in the structure,
- ii. 30 metres from a highway,
- iii. 15 metres from the lot line of the registered parcel of land on which the composting disposal site is located,
- iv. 100 metres from every livestock housing facility, outdoor confinement area and residential structure located on land not owned by the person who owns the registered parcel of land on which the composting disposal site is located,
- v. 100 metres from the lot line of land that has an industrial use or parkland use, and
- vi. 200 metres from the lot line of any land in a residential area or from land that has a commercial, community or institutional use. O. Reg. 106/09, s. 17 (4).

**Regulated compost**

**18. (1)** An operator may apply regulated compost to land in accordance with the following rules:

- 1. Subject to subsection 15 (2), the regulated compost must be applied to the same registered parcel of land at which the material underwent composting.
- 2. If nutrients applied to the land are required to be managed in accordance with a nutrient management plan under Ontario Regulation 267/03 (General) made under the Act, the regulated compost must be applied to the land in accordance with that plan.
- 3. If a nutrient management plan is not required under Ontario Regulation 267/03 (General) made under the Act in respect of the land,
  - i. if no nutrients other than regulated compost are applied to the land in any one 12-month period, the regulated compost may be applied at a rate that does not exceed nine tonnes per hectare per year, or
  - ii. if nutrients in addition to regulated compost are applied to the land in any one 12-month period, the regulated compost may be applied at a rate that complies, with necessary modification, with the requirements set out in paragraphs 1 and 2 subsection 98.12 (2) of Ontario Regulation 267/03. O. Reg. 106/09, s. 18 (1).

(2) An operator shall dispose of any regulated compost that is not applied to land in accordance with subsection (1) by delivering it, in accordance with the transportation requirements set out in section 24, to,

- (a) an approved waste disposal site;
- (b) a composting facility operated by a person licensed under Ontario Regulation 105/09 (Disposal of Deadstock) made under the *Food Safety and Quality Act, 2001*; or
- (c) an anaerobic digester,
  - (i) that is approved and operated under the requirements of Ontario Regulation 267/03 (General) made under the Act,or

(ii) that is operating under an environmental compliance approval issued in respect of an activity mentioned in subsection 27 (1) of the *Environmental Protection Act*, as long as the requirements of sections 98.11 and 98.12 of Ontario Regulation 267/03 are also met. O. Reg. 106/09, s. 18 (2); O. Reg. 235/11, s. 3.

(3) An operator disposing of regulated compost under subsection (2) shall, at the time of delivery, advise the operator of the site, facility or digester of the species of animals in the composting material. O. Reg. 106/09, s. 18 (3).

(4) When an operator has composting material that he or she is not processing into regulated compost in accordance with this Regulation, the operator shall dispose of it as provided for in subsection (2), after first advising the operator of the site, facility or digester of the species of animals in the composting material. O. Reg. 106/09, s. 18 (4).

(5) For greater certainty, an operator may advise an operator under subsection (3) or (4) by using the services of a collector. O. Reg. 106/09, s. 18 (5).

## COLLECTION BY A COLLECTOR

### Collection requirements

**19.** An operator who disposes of a dead farm animal by using the services of a collector shall,

- (a) place the dead farm animal for collection in accordance with sections 20 to 22; or
  - (b) deliver the dead farm animal directly to the collector, while ensuring that the transfer takes place outside of public view.
- O. Reg. 106/09, s. 19.

### Places for collector pickup

**20.** (1) Subject to subsection (2), an operator shall not dispose of a dead farm animal by placing it for collection by a collector, unless he or she places it,

- (a) on land that is owned by the operator and that is used for an agricultural operation; or
- (b) on the farm where the animal died, if,
  - (i) the operator of the farm operation does not own the land but carries on a farm operation on that land, and
  - (ii) the person who owns the land gives his or her prior written consent to the disposal. O. Reg. 106/09, s. 20 (1).

(2) An operator may designate a place on land that otherwise complies with subsection (1) as a common collection point, and where an operator has done so, another operator may place dead farm animals at that common collection point, with the prior written consent of the operator who has made the designation. O. Reg. 106/09, s. 20 (2).

### Special rules re common collector points

**21.** Every operator who designates a common collection point shall ensure that the following requirements are complied with:

1. The operator may designate only one common collection point.
  2. The common collection point must have one or more containers for the storage of dead farm animals that are awaiting collection, and all the dead farm animals at the common collection point must be placed in the containers and kept there until collected.
  3. The total weight of the dead farm animals kept at the common collection point at any time may not exceed 3,000 kilograms.
- O. Reg. 106/09, s. 21.

### General rules

**22.** (1) Every operator who has placed a dead farm animal for collection shall ensure that the following requirements are complied with, unless the dead farm animal has been placed for collection at a common collection point, in which case the operator who designated the common collection point shall ensure that the following requirements are complied with:

1. The dead farm animal must be monitored at least daily until it is collected.
2. The dead farm animal must be stored in a manner that,
  - i. prevents liquids that leak from the animal from escaping onto the ground,



ii. protects it from scavengers, rodents, insects and other pests, and

iii. conceals it from public view.

3. If there is leakage of liquids onto the ground from the dead farm animal, the liquids must be contained and all reasonable steps taken to prevent further leakage.

4. If the dead farm animal begins to putrefy, it must be disposed of immediately by using a method of disposal permitted under this Regulation other than collection by a collector. O. Reg. 106/09, s. 22 (1).

(2) Once a dead farm animal has been removed from the place it was awaiting collection, the operator shall ensure that the place where the animal was kept and the surrounding area are promptly cleaned of all animal matter that appears, on visual examination, to be larger than 25 millimetres in any dimension. O. Reg. 106/09, s. 22 (2).

(3) A dead farm animal that is placed for collection by a collector is not considered to be disposed of until it is actually collected or is disposed of in another manner permitted under this Regulation. O. Reg. 106/09, s. 22 (3).

#### **PART IV TRANSPORTING ON A PUBLIC HIGHWAY**

##### **Dead farm animal transportation**

**23.** (1) No person other than a collector shall transport a dead farm animal on a public highway unless he or she is the operator required to dispose of the animal. O. Reg. 106/09, s. 23 (1).

(2) An operator who transports a dead farm animal on a public highway shall do so in accordance with the requirements set out in this section. O. Reg. 106/09, s. 23 (2).

(3) A dead farm animal must not be transported on a public highway to any place other than a place where the operator is permitted to store or dispose of the dead farm animal under this Regulation. O. Reg. 106/09, s. 23 (3).

(4) A dead farm animal must be transported without being in public view and in a vehicle, trailer or transport container that satisfies the following requirements:

1. It is designed and equipped to prevent leakage.

2. Each of its surfaces that may come into contact with a dead animal is impervious and capable of withstanding repeated cleaning and sanitizing. O. Reg. 106/09, s. 23 (4).

(5) After a vehicle, trailer or transport container is used for the transportation of a dead farm animal, the vehicle, trailer or container, as the case may be, must be completely cleaned and sanitized. O. Reg. 106/09, s. 23 (5).

##### **Composting material and regulated compost transportation**

**24.** (1) No person other than a collector shall transport composting material or regulated compost on a public highway unless he or she is the operator who composted the material. O. Reg. 106/09, s. 24 (1).

(2) An operator who transports composting material or regulated compost shall do so in accordance with the requirements set out in this section. O. Reg. 106/09, s. 24 (2).

(3) An operator may only transport composting material or regulated compost on a public highway to a place permitted under subsection 15 (2) or section 18. O. Reg. 106/09, s. 24 (3).

(4) Composting material must be transported without being in public view. O. Reg. 106/09, s. 24 (4).

(5) After a vehicle, trailer or transport container is used for the transportation of composting material or regulated compost, the vehicle, trailer or container, as the case may be, must be completely cleaned and sanitized. O. Reg. 106/09, s. 24 (5).

**Alternative locations**

**25.** Despite anything else in this Regulation, wherever a person under this Regulation is permitted to transport dead farm animals, composting material or regulated compost to a permitted destination, that person may also transport the animals, material or compost to an equivalent destination outside Ontario that may legally accept them for the purpose of disposal, as long as the requirements under this Regulation are otherwise met in Ontario. O. Reg. 106/09, s. 25.

**PART V  
RECORDS****DUTY TO KEEP RECORDS****Record of disposal**

**26.** An operator who is required to dispose of a dead farm animal shall promptly make and keep a record of the animal's disposal in accordance with the requirements of this Part. O. Reg. 106/09, s. 26.

**Contents of record**

**27.** (1) The record required under section 26 must include the following:

1. The species and age of the animal.
2. The weight of the animal immediately before disposal.
3. If known, the date and time of the animal's death and the cause of its death.
4. The date and time of the animal's disposal, the method of disposal, and the place of disposal.
5. The date on which the record is made. O. Reg. 106/09, s. 27 (1).

(2) When a dead farm animal is disposed of by incineration, a record must be kept of the temperatures in the incinerator combustion chambers at all times during the incineration. O. Reg. 106/09, s. 27 (2).

**Requirements for records**

**28.** (1) A record kept under section 26 must be kept in accordance with the following requirements:

1. The records must be kept on paper or in an electronic form that allows for their prompt production or reproduction.
2. Subject to paragraphs 3 and 4, the records must be stored at a location at the farm on which the animal died.
3. If it is not practical to store the records at the farm on which the animal died, the records may be stored at another location if the operator has access to that location and could, at any time he or she is required to do so, promptly produce the records.
4. The records must be stored in a place that is readily accessible by a provincial officer.
5. A record must be kept for at least two years following the date on which it is made. O. Reg. 106/09, s. 28 (1).

(2) If an operator, with the prior written consent of the owner of a registered parcel of land, places a dead farm animal for disposal on land he or she does not own, the operator shall, promptly after the animal is placed, provide the owner of the land with complete copy of the records the operator is required to keep under this Part, and the owner of the land shall keep these records for a period of two years from the date of receipt. O. Reg. 106/09, s. 28 (2).

**Records re regulated compost**

**29.** (1) An operator who applies regulated compost to a registered parcel of land shall keep a record of all regulated compost applied to the land in the 12-month period referred to in paragraph 3 of subsection 18 (1). O. Reg. 106/09, s. 29 (1).

(2) An operator to whom subsection (1) applies shall promptly make or amend the record mentioned in subsection (1) after each application of regulated compost. O. Reg. 106/09, s. 29 (2).

(3) The operator shall keep the record mentioned in subsection (1) for at least two years after the end of the 12-month period to which it applies. O. Reg. 106/09, s. 29 (3).

(4) A record to which this section applies must comply with paragraph 5 of subsection 27 (1) and paragraphs 1 and 4 of subsection 28 (1). O. Reg. 106/09, s. 29 (4).

## **PART VI EMERGENCIES**

### **Emergency request for authorization**

**30.** If an operator believes that emergency conditions exist that make it impractical for him or her to comply with a provision of this Regulation respecting storage, disposal or transportation, he or she may apply to a director for authorization to store, dispose of, transport, or otherwise deal with the dead farm animals in a manner that would not otherwise be permitted under this Regulation. O. Reg. 106/09, s. 30.

### **Director may authorize exemption**

**31.** (1) Subject to subsection (3), the director may authorize an applicant under section 30 to store, dispose of, transport, or otherwise deal with the dead farm animal in a manner that would not otherwise be permitted under this Regulation, if the director is satisfied that emergency conditions exist that make it impractical for the person to comply with this Regulation. O. Reg. 106/09, s. 31 (1).

(2) In deciding whether to grant an authorization, the director shall take into account the following factors:

1. The reasons given by the applicant to establish that emergency conditions exist and why it is not practicable to comply with this Regulation, including whether the conditions exist because of the applicant's own negligence or previous failure to comply with this Regulation.
2. The type, nature and extent of the emergency conditions.
3. The length of time that the emergency conditions have existed.
4. The number, size, approximate age, approximate weight and species of the dead farm animals in question.
5. The condition of the dead farm animals, including whether the dead farm animals were mixed with other material.
6. Any other factors that the director considers relevant in the circumstances. O. Reg. 106/09, s. 31 (2).

(3) The director shall not grant an authorization if, in the director's opinion, any of the following are true:

1. Other methods of dealing with the situation that are permitted under this Regulation are available to the applicant.
2. Despite the emergency conditions, it would not cause serious hardship to the applicant to comply with the provision that the applicant considers it impractical to comply with.
3. Granting the authorization could compromise the sustainability of an agricultural operation.
4. Granting the authorization could result in a discharge or a likelihood of discharge of materials containing nutrients into the natural environment and a resulting adverse effect as described in one or more of paragraphs 1 to 7 of subsection 18 (3) of the Act. O. Reg. 106/09, s. 31 (3).

(4) The director may issue an authorization subject to whatever conditions the director considers advisable under the circumstances in the public interest, and the person to whom the authorization is given shall comply with those conditions. O. Reg. 106/09, s. 31 (4).

(5) A person to whom an authorization is granted shall, within 30 days after the authorization is granted, provide the director with evidence, acceptable to the director, that the dead farm animals in question were dealt with in accordance with the authorization and any conditions set by the director. O. Reg. 106/09, s. 31 (5).

(6) This section does not authorize any person to contravene this Regulation except as provided for in the director's authorization. O. Reg. 106/09, s. 31 (6).

(7) A director acting under this section is not required to give any person a hearing and any decision of a director is final. O. Reg. 106/09, s. 31 (7).

**32.** OMITTED (PROVIDES FOR AMENDMENTS TO THIS REGULATION). O. Reg. 106/09, s. 32.

**33.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 106/09, s. 33.

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