

June 28th, 2021

Shannon Boland
Divisional Compliance Branch
135 St. Clair Avenue West, Floor 8
Toronto, ON M4V 1P5

Sent via email to: Shannon.Boland@ontario.ca
and submitted online via Environmental Registry of Ontario (ERO)

Dear Ms Boland,

Re: ERO 019-2972 Modernizing environmental compliance practices of the Ministry of the Environment, Conservation and Parks

The Ontario Federation of Agriculture (OFA) proudly represents more than 38,000 farm family members across the province, supporting our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. OFA works to ensure the agri-food sector and our rural communities are included, consulted and considered in any new and changing legislation that impacts the sustainability of our farm businesses. We are the leading agricultural advocate for Ontario farmers, their businesses and their communities.

OFA appreciates the opportunity to provide comments on: ERO 019-2972 Modernizing environmental compliance practices of the Ministry of the Environment, Conservation and Parks.

Section 3.1 of the draft Ontario's Environmental Compliance Policy document discusses the powers held by Provincial officers which includes entering private property without a warrant (except dwellings). We would like to take this opportunity to reinforce the need for adherence to the biosecurity protocols when anyone enters agricultural properties and buildings.

Section 3.2 of this policy identifies that other ministry staff can be involved in compliance work by collecting information or data; provide education materials and/or respond to inquiries. This section should be amended or clarified to include staff from other Ministries, including OMAFRA. The role of these other staff should also include providing technical advice and clarification to Provincial Officers.

Section 4.2 outlines the Informed Judgement Matrix (IJM) that Provincial Officers use to assist in deciding how to proceed in the face of potential violations. Included in this matrix is the potential use of Administrative Monetary Penalty (AMP). It would have been much more useful if the recently concluded AMP consultation ran parallel to this consultation and included details around the IJM. It is our belief that any AMP ordered be proportional to the risk to environment caused by the infraction. Therefore we believe that issues without a risk to the environment, such as administrative contraventions, should not be assessed an AMP. Based on the IJM, that would mean that AMP would not be included in Compliance Categories I or II.

OFA is in favour of section 5.1 – Compliance Promotion which focuses on ensuring people are “aware of, understand and comply with Ontario’s laws.” This includes education and outreach programs and working with sectors and associations to disseminate this information.

Section 5.3 speaks to the inspection report issued by a provincial officer, however it does not provide any timelines for providing the report to the facility inspected. It is our belief that these reports need to be delivered in timely manner and provide opportunity to discuss the findings.

Section 5.5.1 states that any order coming from an inspection is issued to the current owner of a property who is registered on title. This is problematic for agricultural operations where there could be issues of land rental and contracted work. OFA believes that there needs to be discretion and conversations regarding who receives an order based on who may be responsible for the contravention.

There is an error in section 5.5.2 which states that appeals can be made to the Environmental Review Tribunal. However, Bill 245 - Accelerating Access to Justice Act, 2021 received Royal Assent on April 19, 2021, replaced the Environmental Review Tribunal with Ontario Land Tribunal.

Before appealing to the Tribunal, a person who has received an order may request a review by a designated ministry director who can confirm, alter or revoke the order. OFA would like to see this expanded for appeals to incorporate input from experts in other Ministries, such as OMAFRA.

Finally, Section 5.6.1 states that “money collected from environmental penalties is directed to the *Ontario Community Environment Fund* and is used to fund environmental projects”. We believe that money collected from agricultural operations under this framework should be reinvested into the agricultural community, enhancing existing agricultural environmental cost-share programs.

I trust our opinions and recommendations will be given due consideration in this consultation and look forward to ongoing consultation and discussion.

Sincerely,

Peggy Brekveld
President

