

Agricultural Waste Control Regulation (AWCR)

Response Form

Discussion Areas and Questions

1. Ministry objectives for proposed revisions

The ministry is proposing revisions to the Agricultural Waste Control Regulation for regulating discharges to the environment from agricultural operations with the objectives of: establishing consistent standards and requirements; providing clear regulatory direction, appropriate to the degree of risk; reducing and removing wastes and toxins from the environment; focusing on desired environmental conditions rather than prescribed agricultural practices where appropriate; shifting to regulating discharges from agricultural operations by a code of practice (minister's regulation) and updating regulatory provisions to incorporate current and emerging trends and technologies (see section 3.1 of the intentions paper).

1.1 Do you have any general comments regarding the ministry's objectives for proposed revisions?

We do not understand the implications of the change to a code of practice. While we agree for the need for clear regulatory direction and a focus on environmental outcomes rather than prescriptive practices, we do not agree that consistent standards as described will result in better environmental outcomes. These "consistent standards" when applied to the very small and largely organic farm operations in the Gulf Islands will result in unintended consequences which may include more spreading of raw manure, less composting, and less farming in general since small farms will be unable to comply and therefore subject to "snitching" by neighbours.

2. Revised definitions

The ministry intends to update definitions in the revised regulation to ensure that they are consistent with ministry intention, current practices and other legislation and regulations (see section 5.1 of the intentions paper).

2.1 Do you have any comments or suggestions regarding the **definition of agricultural operations** as applies to the regulation?

No objection to the Waste Discharge Regulation definition of agricultural operations, but great objection to the implied similarity of small and largely organic farming operations with industrial activities such as metal smelting, coal mining, municipal waste incineration, etc. While large, intensive conventional farms may be considered equivalent to industrial operations with potentially large environmental impacts, there are no data to suggest that small and largely organic farms present similar risks. In fact a rural residence with a few horses in the backyard may pose a greater hazard to groundwater than a small organic market garden or mixed farm. In our view the solution is an exemption for small farm operations in the Waste Discharge Regulation and the Agricultural Waste Control Regulation.

2.2 Do you have any comments or suggestions regarding the **definition of agricultural wastes** as applies to the regulation?

In the context of small and largely organic farms, we have problems with both the current definition and the proposed definition of agricultural wastes. From an ecological standpoint, there is no such thing as agricultural waste. Any material superfluous to market is needed for proper ecosystem functioning and is recycled on the farm. A better term would be "ecosystem inputs". Small and largely organic farms may lack sufficient ecosystem inputs and may import carbonaceous and nitrogenous organic materials from rural neighbours. Such imports are heavily and unnecessarily restricted by current regulation. A change in terminology to "ecosystem inputs" and expansion of the definition to include carbonaceous and nitrogenous organic materials such as branches and leaves from non-farm sources would be helpful.

2.3 Do you have any comments or suggestions regarding the **definition of agricultural by-products** as applies to the regulation?

In our view, the introduction of the term "agricultural by-product" is an unnecessary complication for small farm operations. "Agricultural wastes" and "agricultural by-products" are essentially the same thing—ecosystem inputs resulting from agricultural operations. When does one become the other, and why does it matter? Inappropriate

regulation has already created problems for “agricultural by-products”, for example by restricting the ability of small-scale dairy farmers to keep a few hogs to utilize whey from cheese-making.

2.4 Do you have any other comments or suggestions regarding definitions for the ministry to consider in revising the regulation?

Exempt small farms using organic practices and low input agriculture, and all certified organic farm operations given that Canadian standard CGSB/CAN 32-310 addresses environmental concerns and potential contamination. For certainty that environmental standards are met, there could be a provision that exempted farms shall demonstrate environmental performance if requested through an approved environmental farm plan. Failure to comply would remove the farm’s exempt status.

3. On-farm transport of agricultural wastes and by-products

The ministry is considering including requirements for proper containment of agricultural wastes or by-products when being moved on-site or from site-to-site to ensure that no spills or leakage will result in runoff into watercourses, or off the property (see section 5.2 of the intentions paper).

3.1 Do you have any comments or suggestions regarding regulation of on-farm transport of wastes and by-products?

Any such requirements that applied to small and largely organic farm operations would likely be excessive from a cost perspective.

4. Storage of agricultural wastes and by-products

A. **Storage facility requirements** (see intentions paper section 5.3 A)

4.1 Do you have any comments regarding the proposed **definition** of a storage facility?

A “confined livestock area” for small and largely organic farm operations is not a “waste storage facility”.

4.2 Do you have any comments regarding **requirements for storage** of agricultural wastes and by-products?

In general, while the objective to prevent contamination of surface and ground water is admirable, the requirements are inappropriate and excessive for small quantities of organic materials. A flexible cover (e.g. polyethylene or breathable membrane) in many cases is more appropriate than a building. Berms may not be appropriate. An impermeable floor may or may not be necessary, depending on the type of material to be stored.

4.3 Do you have any comments regarding **setback distance requirements** for storage facilities?

The increase in minimum setbacks to 30 metres will render many small farms in the Gulf Islands inoperable.

4.4 Do you have any comments regarding **storage facility capacity requirements**?

The requirement that a “confined livestock area”, for small and largely organic farm operations, should be designed to hold a year’s worth of manure is excessive. Even in a deep litter situation, bedding would be removed after six months in the spring.

4.5 Do you have any comments regarding the proposed requirement that a **qualified professional design and sign-off** on the building of storage facilities for agricultural operations over a certain size, or intensity threshold?

In our experience, QEPs are required to demonstrate compliance, or acceptable environmental performance despite non-compliance, to an ever-increasing number of regulations. The cost of QEP reports for small farm operations impose excessive financial hardship. We would hope that small farms would be exempt from QEP requirements.

4.6 Do you have any comments regarding **monitoring and testing** requirements for storage facilities?

Unacceptable for small farm operations.

4.7 Do you have any comments regarding the **proposed phase-in dates** for requirements addressing existing or new storage facilities?

4.8 Do you have any additional comments regarding appropriate requirements to ensure that storage facilities meet objectives for environmental protection?

Exempt small farm operations.

B. Field storage (see intentions paper section 5.3 B)

4.9 Do you have any comments regarding the proposed requirements for **field storage** of solid agricultural wastes and by-products?

We agree that materials should be covered. WE STRONGLY DISAGREE that materials to be stored in a field for less than two weeks should be located on an impermeable surface and bermed.

4.10 Do you have any comments regarding the ministry's intention to repeal the provision for **long term field storage** of up to nine months for agricultural wastes, and instead, if storing for longer than two weeks, must meet storage facility requirements?

WE STRONGLY DISAGREE. This provision will prevent small-scale farmers from adequately ageing composted material in covered windrows and will result in raw manure being spread on fields. Raw manure applications are not consistent with best management practices for organic production.

C. Rainy season field storage (see intentions paper section 5.3 C)

4.11 Do you have any comments regarding the ministry's intention to delete reference to field storage in the "rainy season" and to require that all materials be stored in a manner that prevents leachate generation, runoff and erosion at all times of the year?

WE STRONGLY DISAGREE. See 4.10 above.

5. Storage and use of wood waste

The ministry is considering strengthening the conditions governing the uses of wood waste in the revised regulation (see intentions paper section 5.4).

5.1 Do you have any comments or suggestions regarding appropriate requirements for **storage of wood waste**?

We agree that wood waste should be covered. Other requirements for the storage of small quantities of wood waste we think excessive.

5.2 Do you have any comments or suggestions regarding appropriate requirements regarding **wood waste** use?

The 30 metre setback requirements may radically reduce or eliminate the potential for crops such as blueberries grown using sawdust mulch on a small farms where suitable growing areas are measured in square metres, not hectares.

6. Composting agricultural waste

The ministry intends to revise provisions addressing the composting of agricultural wastes (see intentions paper section 5.5).

6.1 Do you have any comments regarding storage and setback **requirements for composting and curing sites**?

We agree that compost should be covered. WE STRONGLY DISAGREE with other proposed requirements, including 30 metre setbacks and impermeable surfaces under curing sites. See comments 4.8, 4.9 and 4.10

6.2 Do you have any comments regarding minimum **standards for treating agricultural wastes** to ensure that they are fully degraded?

It is very difficult to achieve 40C temperatures throughout a small batch of material and therefore most small farm operations rely on cold composting for longer periods. This requirement is not appropriate for small farms.

6.3 Do you have any comments regarding **testing of finished composted material**?

Recommended application rates for finished compost range from 25 m3 per 1000 m2, depending on various factors. Few small farms will be producing batches of finished compost less than five m3. Testing of finished compost is an excessive and unreasonable burden for small farms.

6.4 Do you have any comments regarding the ministry's proposal to include **composting requirements for mushroom material** in the composting section of the regulation?

7. On-farm disposal of mortalities and slaughter & poultry processing (slaughter) wastes

The ministry is proposing that requirements for disposing of mortalities and exempt slaughter wastes produced on the agricultural operation will be the same. Also, prior to disposal, slaughter wastes would be required to be contained to ensure there is no leakage (see intentions paper section 5.6).

7.1 Do you have any comments regarding requirements for managing mortalities and **"exempt" slaughter wastes** (see intentions paper section 5.6 A)?

WE STRONGLY DISAGREE with the proposal to eliminate the exemption for small producers. 7.2 Do you have any comments or suggestions regarding appropriate requirements for on-farm composting of mortalities and slaughter wastes (see intentions paper section 5.6 B)?

In our experience, small quantities of slaughter waste are successfully composted using the same methods as other farm composting. See comment 6.1. Additional requirements are unnecessary.

7.3 Do you have any comments or suggestions regarding appropriate requirements for on-farm **burial** of mortalities and slaughter wastes (see intentions paper section 5.6 C)?

The proposed requirement that all burials be 4 metres above seasonal high water table suggests either that the Ministry is proposing platform burials (which are ecologically sound and would support turkey vulture populations) or that it is regulating for a different planet.

7.4 Do you have any comments or suggestions regarding appropriate requirements for on-farm **incineration** of mortalities and slaughter wastes (see intentions paper section 5.6 D)?

7.5 Do you have any comments regarding the **proposed phase-in dates** for on-farm disposal of mortalities and slaughter wastes requirements?

8. Access to water in feeding areas

The ministry is proposing revisions to the regulation that will define livestock grazing and seasonal feeding areas and will set requirements for access to watercourses (see intentions paper section 5.7).

8.1 Do you have any comments or suggestions regarding appropriate regulation of livestock grazing, protection of watercourses and identification of **grazing, seasonal feeding and high risk areas**?

The objective to restrict livestock access to rivers and streams is good. The problem is the definition of "watercourse". Gulf island pastures typically include seasonal creeks and ditches that are dry for most of the year. Fencing these would be cost prohibitive and would render many small pastures unusable.

8.2 Do you have any comments or suggestions regarding the ministry's proposal to include **confined livestock areas** in the definition of a "storage facility" with associated requirements?

Disagree. See comments 4.1 and 4.4

8.3 Do you have any comments regarding the **proposed phase-in dates** for access to water in feeding areas requirements?

9. Land application of agricultural wastes and by-products

The ministry's intention is to provide clear and consistent guidance for "general requirements" involving land application of agricultural wastes and by-products while encouraging good judgment through, for example, effective nutrient management planning (see intentions paper section 5.8).

9.1 Do you have any comments or suggestions regarding the ministry's proposed general requirements and revisions governing all **land application of agricultural waste and by-products**?

STRONGLY DISAGREE. In our view the proposed requirements amount to micro-managing the farm business. Organic farms already use nutrient management planning and certified operations pay for annual inspection. Managing the soil for ecological health and crop productivity is what we do here on the small farms of the Gulf Islands.

9.2 Do you have any comments or suggestions regarding requirements addressing **manure applications on crops grown for human consumption**?

If the proposed regulations are passed, farmers will be unable to compost their manure and will likely resort to spreading raw manure on food crops since this provision will be very difficult to enforce.

9.3 Do you have any comments regarding the proposed phase-in dates for agricultural waste and by-products application requirements?

10. Nutrient management planning

The ministry is proposing that all agricultural operations who land apply agricultural wastes, by-products or other nutrient sources be required to undertake nutrient management planning to ensure that land application of nutrients from all sources (e.g., manure, composted materials and supplemental nutrients) do not exceed the crop requirements (see intentions paper section 5.9).

A. Risk-based approach (see intentions paper section 5.9A)

10.1 Do you have any comments or suggestions regarding **factors and criteria** (such as geography and/or farm size) that could be used to identify and differentiate agricultural operations that may pose a higher risk to the environment?

If the Size/Intensity criteria are used as an initial screen and only those operations located in the geography/climate high risk areas are designated high risk, this is acceptable. The Gulf Islands are in the proposed "high risk" area, but the nature of farm operations could be considered low risk. If a high risk designation is to be included, it should relate to farm operations first and geography/climate second, otherwise the burden on low risk operations will be unacceptable. Production methods should also be considered a risk factor. Certified organic farms are lower risk regardless of scale because they conform to organic regulatory standards and must pass annual inspection.

B. Nutrient application assessment (see intentions paper section 5.9 B)

10.2 Do you have any comments or suggestions regarding use of a **nutrient application assessment screening tool** to determine appropriate nutrient management planning requirements for agricultural operations?

Not appropriate for small farms and largely organic farm operations.

10.3 Do you have any comments or suggestions regarding **nutrient management planning requirements** for agricultural operations in areas identified as "high risk"?

Not appropriate for small farms and largely organic farm operations. See 10.1. Certified organic farms are required under organic standards to have a crop nutrient management program that does not contribute to contamination of soil, crops or water. Any additional requirements are an unnecessary paperwork burden.

10.4 Do you have any comments or suggestions regarding requirements for and/or **certification of custom applicators for specified situations** (e.g., agricultural operations in areas identified as high risk)?

10.5 Do you have any comments regarding the **proposed phase-in dates** for nutrient management planning requirements?

11. Monitoring and testing

The ministry is proposing monitoring and testing requirements based on level of risk to the environment (see intentions paper section 5.10).

11.1 Do you have any comments or suggestions regarding monitoring and testing requirements for **agricultural operations in “low risk” areas**?

[Monitoring and testing is onerous for small farms, which should be exempted, see 2.4](#)

11.2 Do you have any comments or suggestions regarding monitoring and testing requirements for **agricultural operations that are responsible for preparing a nutrient management plan**?

[Monitoring and testing is onerous for small farms, which should be exempted, see 2.4](#)

11.3 Do you have any comments or suggestions regarding monitoring and testing requirements for **agricultural operations in high risk areas**?

[Monitoring and testing is onerous for small farms, which should be exempted. See 10.1 and 2.4](#)

12. Record keeping

12.1 Do you have any comments or suggestions regarding proposed record keeping requirements (see intentions paper section 5.11)?

[A burdensome requirement for small farms using largely organic methods.](#)

13. Additional considerations

A. Emerging technologies and treatment options (see intentions paper section 5.12 A)

13.1 Do you have any comments or suggestions regarding emerging technologies (such as anaerobic digestion or alkaline hydrolysis) and how they could or should be addressed in the revised regulation?

B. Sector specific requirements (see intentions paper section 5.12 B)

13.2 Do you have any comments or suggestions regarding additional sector specific requirements that could or should be addressed in the revised regulation?

C. Regulating under a Code of Practice

The ministry is proposing that the current regulation be repealed and a code of practice (as a Minister’s regulation) be enacted to provide a consistent and updated regulatory underpinning for the regulation of agricultural wastes and by-products (see intentions paper section 5.12 C).

13.3 Do you have any comments or suggestions regarding the ministry’s intention to repeal the existing regulation and establish a code of practice for the regulation of agricultural wastes and by-products?

[The implications of the proposed change are not clear to us. However if by “Code of Practice” we are to assume something akin to a Building Code where compliance to the letter of the regulation is mandatory, regardless of performance, and where there is no appeal process other than through the courts, then we are emphatically and vigorously opposed.](#)

14. Phase-in schedule for implementing the revised regulation

14.1 Do you have any additional comments or suggestions regarding proposed phase-in dates for particular requirements under a revised regulation (see intentions paper section 5.13, table 8)?

15. Best management practices(BMPs)

The regulation is supported by guidance and direction related to practices and procedures for the management of agricultural waste and by-products (see intentions paper section 6).

15.1 Do you have any comments or suggestions regarding development and use of guidelines and/or best management practices for the management of agricultural waste and by-products?

Given the diversity of BC's farm operations, geography and climate it is highly unlikely that sensible requirements for a one-size-fits-all "Code of Practice" could be developed. The proposed document illustrates this admirably. Better to avoid prescriptive regulations and instead enable the Ministry to do spot checks. In the event of problems, require BMPs to be followed.

16. Consultation with First Nations

16.1 Do you have any comments or suggestions regarding consultation with First Nations with respect to proposed revisions to the AWCR (see intentions paper section 7)?

17. Assuring compliance

Section 8 of the intentions paper outlines ministry intentions addressing awareness and compliance promotion, as well as compliance verification and enforcement, of the regulation.

17.1 Do you have any comments on or suggestions for the ministry to support **awareness of and compliance with** the regulation?

17.2 Do you have any comments on or suggestions for the ministry with respect to **compliance verification and enforcement** of the regulation?

18. Protection of human health and the environment – meeting ministry objectives

18.1 In your view, how effectively do the ministry's intentions and proposals for revising the Agricultural Waste Control Regulation address the ministry's objectives of protecting the environment and encouraging the responsible management of agricultural waste and by-products?

1 Not at all effective 2 Significant gaps 3 Adequate 4 Quite effective 5 Very effective

Circle or highlight one

What are the reasons for your choice? What suggestions do you have for the ministry to improve the effectiveness of the regulation?

See all comments above, but particularly sections 1, 2, 13.3, and 15.1. To repeat: Given the diversity of BC's farm operations, geography and climate it is highly unlikely that sensible requirements for a one-size-fits-all "Code of Practice" could be developed. The proposed document illustrates this admirably. Better to avoid prescriptive regulations and instead enable the Ministry to do spot checks. In the event of problems, require Best Management Practices to be followed.

18.2 Do you have any other comments or suggestions for the ministry regarding the regulation of agricultural waste and by-products?

At the very least exempt small farm operations using organic practices and low input agriculture, and all certified organic farm operations given that Canadian standard CGSB/CAN 32-310 addresses environmental concerns and potential contamination.

Thank you for your time and comments! Please remember to return this response form to the ministry on or before March 31, 2012.

If you wish, you may also provide contact information following. This information will be compiled separate from responses and used to inform respondents of posting of the summary of comments and subsequent actions to develop and implement the regulatory changes.

(Optional) Contact Information

If you wish to receive further information concerning review and revision of the Agricultural Waste Control Regulation, please provide your contact information – **including an email address** – below. Note that all submissions will be treated with confidentiality by government staff and contractors however information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Contact Name: [Elizabeth White](#)

Business or Organization Name (if appropriate): [on behalf of the Salt Spring Island Agricultural Alliance](#)

Email: elizwhite@saltspring.com

Mailing address: [171 Vesuvius Bay Road, Salt Spring Island, BC V8K 1K3](#)

Telephone: [250-537-2616](tel:250-537-2616)

Background and Area of Interest

Please mark an “x” in the appropriate boxes if your primary interest in the ministry’s intentions relates to your:

X Work in the agricultural sector:

Please describe your work and/or sector (e.g., field crops, poultry, dairy, berry crops, greenhouse, fruit grower):

[Farm organization representing all farm organizations on Salt Spring Island and responsible for overseeing the implementation of the Salt Spring Island Area Farm Plan.](#)

Work in the private sector consulting to or supporting the agricultural sector:

Please describe the primary nature of your work (e.g., agrologist, supplier):

Work for a government regulatory agency:

Please describe (e.g., federal, provincial, municipal) and branch or section:

Work for a public sector organization:

Please describe (e.g., health authority, education institution, Crown corporation):

First Nation

Please describe:

Involvement or work for an environmental or community interest group

Please describe:

Other interest:

Please describe:

Thank you once more for your time and interest in the AWCR review process.

If you have any further questions, please contact Cindy Bertram at: cindybertram@shaw.ca