



March 10, 2022

Shannon Boland  
Divisional Compliance Branch  
Ministry of the Environment, Conservation and Parks  
135 St Clair Avenue West, Floor 8  
Toronto, On M4V 1P5  
Submitted by e-mail: [envirocompliance@ontario.ca](mailto:envirocompliance@ontario.ca)

**Re: ERO 019-4108, expanding administrative penalties for environmental contraventions consultation**

Dear Ms. Boland,

Ontario Pork appreciates the opportunity to participate in consultation ERO 019-4108, on expanding administrative penalties for environmental contraventions. Our organization also participated in the February 10, 2022, Ministry information session and in previous consultations on this topic.

As the voice of Ontario's province's 1,064 pork farmers, and a leader in the agriculture industry, Ontario Pork is committed to sustainable growth in the pork sector, delivering government representation, research investment, and industry improvements in areas including animal care and environmental sustainability, while growing the brand and reputation of producers and their product. Ontario's pork sector represents a significant part of the Canadian economy, combining - from "farm to fork" - \$1.045 billion in GDP, over 15,843 full time jobs and over \$2.8 billion in economic output.

Throughout the consultations, we have stated our firm belief that an administrative penalty should be proportional to the risk to the environment caused by the infraction. Ontario Pork agrees with the importance of accountability; however, we also believe that there are many different approaches that can be taken. The consideration of due diligence and/or mitigation measures must be a significant factor in considering if an AMP is even going to be applied to an agricultural operation. Agricultural operations are subject to many external forces (i.e., weather) that are beyond the control of the farmer. Failing to recognize the due diligence a farmer takes to mitigate their risk of these variable factors outside of their control is of concern to our members.

We also believe that it is important to consider any contravention history; this includes consideration of the distinction between repeat offenders versus someone who may have been subject to unanticipated factors or made an unintentional mistake.

Ontario Pork is concerned with the elimination of the Ministry's practice of cooperative education and awareness abatement programs and the previous emphasis on assistive compliance. For the *Nutrient Management Act*, in rare instances where there is a proven manure management impact on neighbouring surface water or groundwater and /or a producer fails to follow a Provincial Officer order, there is the

option of issuing *Nutrient Management Act* violation fines under the *Ontario Water Resources Act* or other legislation.

Ontario Pork is greatly concerned to still see the difference in penalty amounts charged to corporations versus individuals. Corporations are subject to penalties that are five times higher than individuals. In the vast majority of agricultural circumstances, the “individual” is the corporation, unlike industrial operations. Farm size does not matter in the sense that a small farm or a large farm can be incorporated. How will the Ministry address this fact?

If the Ministry proceeds with the ability to issue penalties to both a corporation and an individual, we believe there needs to be consideration of the following:

- How to account for the fact that for the vast majority of agricultural circumstances, the “individual” is the corporation, unlike industrial operations. How would this approach take this structure into account, and avoid a “double charging?”
- If an individual farmer is charged under this model, it should be reserved for only the most egregious of contraventions with a significant risk to the environment. We are also opposed to a per day penalty for agricultural operations. There must be recognition of the reality that correcting a contravention can often take some time and will often rely in part on the schedule of a third party or weather conditions, for example. It is not appropriate to have a per day penalty amount when the implementation of the remedy may be beyond the control of the individual or corporation.

The consultation includes a “penalty reduction” and Ontario Pork questions how this would apply to agriculture, given that agriculture does not have any “accredited environmental systems,” such as ISO standards. This is five per cent of the possible 35% reduction in amount owed under penalty reduction. How does an agricultural operation qualify for this part of the reduction?

Thank you for opportunity to participate in this consultation. Ontario Pork would be pleased to further discuss the issues raised in our submission to ensure that the AMP process is fair and reasonable..

Sincerely,



John de Bruyn  
Board Chair