



June 26, 2023

Subject:

Memorandum of Understanding (MOU) among Alberta Agriculture and Irrigation (AGI), Alberta Environment and Protected Areas (EPA), and the Natural Resources Conservation Board (NRCB) regarding the storage and application of digestate on agricultural land.

The purpose of this MOU is to coordinate the regulation, under the *Agricultural Operation Practices Act* (AOPA) and the *Environmental Protection and Enhancement Act* (EPEA), of digestate produced using manure, as defined in section 1(c.2) of AOPA, and any feedstock listed in the *Storage and Application of Digestate on Agricultural Land Directive* (the Directive).

This MOU outlines the respective roles and responsibilities of AGI, EPA and the NRCB in ensuring the environmental risks associated with digestate storage and land application are appropriately managed while duplication of efforts and regulatory burden is avoided. This MOU applies to any person responsible for digestate who is applying to EPA for a permit, who elects to fall under the MOU and can demonstrate the digestate meets the requirements of the associated directive to the satisfaction of EPA and the NRCB.

Nothing in this MOU is intended to limit the NRCB Board members' discretion in considering any permit or nutrient management plan, or an order to enforce any such permit or plan or regulation under AOPA, in an adjudicative review under AOPA.

For this MOU:

- "Digestate" means any liquid or solid material formed from the production of biogas in a digester at a plant or facility that is regulated under EPEA, and
- "Feedstock" means manure as defined in section 1(c.2) of AOPA and any substance listed
 in the Directive that is used for the production of biogas in a digester at a plant or facility
 that is regulated under EPEA.

This MOU concerns the terms and conditions regarding the assumption of regulatory responsibility between EPA and the NRCB for:

- (1) the storage of digestate at "confined feeding operations" as defined in section 1(b.6) of AOPA on agricultural land and in "manure storage facilities" as defined in section 1 (c.3) of AOPA; and
- (2) the application of digestate to arable land, by any person (For this MOU, the term "arable land" has the same meaning as that used in section 24(1) of the *Standards and Administration Regulation*, Alta. Reg. 267/2001, under AOPA.)

hereafter referred to as the "two activities".

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AGI, EPA and the NRCB agree as follows:

- 1. The NRCB assumes regulatory responsibility under AOPA for the two activities, whenever the Feedstock for the Digestate is comprised of at least 50 percent manure by wet weight on an annual basis, and otherwise meets the requirements of the Directive.
- 2. EPA will not assume regulatory responsibility for the two activities where the NRCB assumes regulatory responsibility under Clause 1. EPA will have regulatory responsibility under EPEA for the two activities where the NRCB does not assume regulatory responsibility under Clause 1.
- 3. To the extent permitted by law, EPA, AGI and the NRCB will endeavor to share with each other all relevant information so that each party can fulfill their respective regulatory responsibilities.
- 4. The Directive shall be referenced in any authorization or permit issued by EPA and the NRCB, as applicable.
- 5. Any authorization issued by EPA that is related to the two activities shall include feedstock and digestate monitoring and reporting requirements to show compliance with the Directive. The reporting shall be made available to the NRCB upon request.
- 6. Any permit issued by the NRCB for the two activities shall include soil and groundwater monitoring and reporting requirements, as applicable. The reporting shall be made available to EPA upon request.
- 7. The Directive shall be maintained by AGI and may be updated from time to time, as required and as agreed to by the relevant Executive Directors at AGI and EPA and by the Chief Executive Officer at the NRCB.
- 8. This MOU may be amended from time to time, as required and as agreed to by the relevant Assistant Deputy Ministers at AGI and EPA, and the Chief Executive Officer at the NRCB.
- 9. EPA and AGI commit to considering amendments to legislation in order to affect the coordinated regulatory approach in this MOU and ultimately render this MOU unnecessary.
- 10. This MOU will take effect upon the latest signature date listed below.
- 11. The MOU titled "Memorandum of Understanding (MOU) Among Alberta Environment and Parks (AEP), Alberta Agriculture and Forestry (AAF), and the Natural Resources Conservation Board (NRCB), Regarding On-Farm Storage and Land Application of Digestate", dated April 8, 2020, is hereby cancelled.

Sean Rover

Chief Executive Officer

Natural Resources Conservation Board

Stacey Smythe Date ADM, Regulatory Assurance Division Alberta Environment and Protected Areas

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ADM, Primary Agriculture Division

Alberta Agriculture and Irrigation

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