



Ontario Federation of Agriculture

Ontario AgriCentre

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July 20, 2009

Marcia Wallace, Manager
Ministry of the Environment
Environmental Programs Division
Program Planning and Implementation Branch
55 St. Clair Avenue West, Floor 7
Toronto ON
M4V 2Y7

Re: EBR Registry Number 010-6516 – Proposed Ministry of the Environment Regulations to Implement the Green Energy and Green Economy Act, 2009

Dear Ms. Wallace:

The Ontario Federation of Agriculture (OFA) represents the interests of over 38,000 farm businesses in Ontario. We are pleased to offer our comments, on their behalf, to the Proposed Ministry of the Environment Regulations to Implement the Green Energy and Green Economy Act, 2009.

Ontario farmers are well positioned to provide Ontario with a green and affordable supply of renewable energy now and into the future. The regulations that govern the generation and delivery of such energy will be critical in determining the degree to which our farm families can and will invest in renewable energy projects.

As rural landowners, and as generators of organic materials, our members have several options available to them to participate in renewable energy projects. Consequently, the OFA has cause to be concerned with many aspects of the proposed regulations.

Part III – Explanation of General Requirements

In section 1) of this Part the requirements for public notice and community consultation are outlined. We find the requirement for public notice to be onerous for small, private projects such as will likely be found on farms.

However, we also note that it is proposed that large scale projects (“greater than 3kW” for wind and “greater than 10kW” for solar) are exempt from the requirement to hold community consultation. In other words, the larger the project the less onerous is the requirement for public notice and consultation. This is wrong and needs to be reversed.

We note this situation to be the case for Municipal Consultation and Cultural Heritage requirements, as well as on set-backs for Farm-Based anaerobic digesters.

5) Natural Heritage

The posting requires that projects must meet minimum setbacks from natural heritage features. Locating within the applicable setback requires documentation of a “proposed mitigation approach”.

For example, locating within 120 metres of a significant area of natural and scientific interest requires a demonstration of “the ability to mitigate negative impacts”.

The setbacks appear to be arbitrary. Is there rationale for the proposed setbacks? Are there any guidelines available to identify “negative impacts” that require mitigation?

Under “**Assessment**” requirements, proponents are required to submit explanatory notes about the feature and its natural values and significance. Is the onus exclusively on the proponent to have the ability to recognize such features? What are the consequences for a proponent who unknowingly locates a facility within the prescribed setback? The Ministry itself will need to take some responsibility for the identification of all such features based on the filed Site Plan.

Part IV – Explanation of Technology-Specific Requirements

We note that Section A. provides that small scale wind projects (less than 3 kW) are not subject to a Renewable Energy Approval and therefore not subject to the setback requirements of the section. This will facilitate small scale wind developments.

Noise Setbacks

Wind turbine project setbacks are identified, growing increasingly larger with the number of turbines and sound power levels. The OFA recognizes there is a delicate balance between the need to ensure the health and well being of rural Ontarians and the practical exploitation of wind.

Rural residents in Ontario, as well as elsewhere in North America, are reporting significant health related problems they attribute to nearby wind turbine projects. The OFA has called for a comprehensive epidemiological study on wind turbine impacts to justify appropriate setback provisions and strongly suggests a review be done prior to the approval of projects using setbacks.

The purpose of empirical scientific research is to uncover relationships between variables; an epidemiological study looks at human populations, and attempts to link anomalies in human health to a specified cause. For this study to have any merit, the research methodology must be designed to provide results that will be accepted by both proponents and critics of wind turbine technology. Furthermore, it must have the scope to explore alternative explanations for reported health problems.

From the other perspective, it is important to understand appropriate setbacks for wind project to ensure wind is harvested in economical areas. Wind power is best situated near to high load density centres such as the GTA. Additional transmission infrastructure would be required to handle energy generated in more remote locations, with additional line loss and land used for transmission corridors.

The balance is delicate. Does a 1500 metre setback provide ample protection for the health of rural Ontarians without unnecessarily sterilizing ground that could otherwise provide efficient wind energy?

The OFA strongly recommends a scientific study be undertaken on wind turbine setbacks, immediately.

“Setback” is defined as the distance from the centre of a Point of Reception to the “base of the closest wind turbine”. For the sake of clarity, the definition should be amended to measure from “the Centre of the closest wind turbine”

Setbacks from Roads, Railways, and Property Lines

It is proposed wind turbines be set back a distance equal to or more than “the turbine height plus blade length” for roads, etc.

Again, for clarity the definition should be “turbine height plus the rotor radius” as reference to ‘blade length’ does not account for the hub radius.

This setback from roads, railways and property lines sterilizes large areas of land against wind power development. Any reference to ‘hub height’ puts an unnecessary burden on the overall height of the wind turbine which, in turn, threatens the energy production efficiency of the installation and compromises its financial viability.

When Ontario was originally surveyed, the common lot size was only 100 acres. The nature of agricultural land holdings in Southern Ontario means that this setback requirement could bring about the sterilization of more than 50% of available land against wind power development. This will force wind farms to be located much further north, away from high load centers. This serves to increase transmission costs, lower energy transmission efficiencies, increase the overall negative impact on the environment and reduce the income potential of the farming community.

The setbacks proposed in this section will range between 120 to 150 meters away from all property lines whether or not adjoining properties are ‘participating’ in the wind farm. This will require the establishment of turbines in the middle of most farm fields, unnecessarily using farmland for the turbine and associated infrastructure.

The concept of ‘dissolved property lines’ needs to be considered. Adjoining properties that are ‘participating’ (by legal agreement) in the wind farm can have common property lines ‘erased’ for the purpose of siting wind turbines along property lines. Those farmers would need to consider their future building needs (for example, new barns, silos, and residences) prior to agreeing to turbine development, and also consider the impacts to the resale of their farm property. Most farmers will want to see wind turbines, along with their access lanes, installed adjacent to property lines so as to minimize the land intrusion caused by the wind farm.

Neighbours, on whose property the wind turbine encroaches, would agree with the siting in a contract and be compensated from the rental or other revenue from the turbine. The concept is similar to mineral rights agreements.

Farmland preservation can also be accomplished with the siting of wind turbines close to roads. The principle is the same as for property lines but also guards against future land severances.

Experience in both Toronto and Tiverton, Ontario, has proven that 50 meter setbacks from front yard property-lines is both reasonable and safe.

Detailed mapping is available to demonstrate how detrimental these setback proposals can be to wind farm development.

Conditions of Approval

Proponents will be required to monitor and address any perceptible infrasound or low frequency noise as a condition of the Renewable Energy Approval. The OFA fully supports this requirement as low frequency noise seems to be the main culprit in reported health effects.

The definition of “perceptible” must be objective and science-based.

C. Biogas Facilities (Anaerobic Digesters)

The posting proposes that proponents of digesters located on a farm that are subject to the Nutrient Management Act (NMA) with regards on-farm manure treatment will not require a Renewable Energy Approval and so are not subject to the requirements under this section.

Presently, the NMA regulates operations in excess of 300 animal units – that is large farms. The number of units falling under regulation is being reduced periodically. Consequently, only large facilities are exempt from regulation, requiring smaller installations to be subject to the full slate of requirements of the section.

The OFA is not opposed to the avoidance of duplicate regulation. As larger facilities are subject to existing minimum distance separation, the requirements of the proposed regulations are already largely met. However, the requirement for smaller facilities to obtain a Renewable Energy Approval is burdensome. Subjecting small proposals to the appropriate MDS requirements (as is the case for the larger operations) would be sufficient.

The OFA is pleased to have been provided the opportunity to comment on the EBR posting of the proposed Ministry of the Environment regulations. We trust the comments made on behalf of over 38,000 farm families and businesses will be given due consideration.

Sincerely,

A handwritten signature in black ink, reading "Bette Jean Crews". The signature is fluid and cursive, with the first name "Bette" being the most prominent.

Bette Jean Crews
President