

OCA Submission on Bill 81 - Nutrient Management Act

September, 2001

The Ontario Cattlemen's Association represents 25,000 beef producers in Ontario. Farmgate value of beef cattle production in Ontario (\$980 million) is second only to dairy. Beef cattle raised in Ontario provide the raw product for significant primary and secondary food processing sectors serving the consumer, retail and food service segments of the economy. The agrifood sector in Ontario is second only to the automotive industry in gross sales. Agriculture is a driving force in the Ontario economy!

The OCA is actively involved in many programs relating to protection of Ontario's environment. We have initiated many projects focused on water quality. OCA has been a member of the Ontario Farm Environmental Coalition since its inception in 1991. We are committed to making legislation and standards for farming operations effective for both environmental protection as well as practical for farmers competing in a global marketplace.

The following represents OCA's positions on several key aspects of the recently introduced legislation.

Planning

The current need for standards has been driven, in part, by poor land use planning in the past. All levels of government must develop a much more comprehensive strategy toward planning decisions. Agriculture is a very significant business in Ontario and must be assured of its future in the rural landscape. Legislation and regulations regarding agricultural operations must be built on this premise.

Rural Vision

Government is challenged with finding a balance between the demands of society relating to desired environmental conditions and the global competitiveness required of today's farmers. Several other jurisdictions, facing the same issue, have implemented "rural environmental programs". These include very significant funding for landowners. The government in Ontario should work with all stakeholders to develop a vision for rural Ontario and commit the funding needed to implement this vision.

OCA position:

- Industry partners, including all levels of government, need to develop a vision for rural Ontario.
- As part of this vision, OCA recommends the expansion and provision of permanent funding for the highly successful, and widely accepted, Environmental Farm Plan program as a delivery vehicle for funding related to new regulations for agriculture operations.

Protection of the environment

- Farmers are currently regulated by several pieces of legislation:
 - Environmental Protection Act
 - Ontario Water Resources Act
 - Fisheries Act
- Contrary to recent press coverage, the Farming and Food Production Protection Act does not constitute a license to pollute for farmers.
- Farmers have been proactive with respect to protection of the environment and have taken many voluntary actions (Environmental Farm Plans, Nutrient Management Plans and Best Management Practices). These actions must be recognized and encouraged.
- Water quality is the responsibility of all citizens of Ontario.

OCA position:

- Consistent with the Ontario Farm Environmental Coalition (OFEC) position, we believe that no one has a right to pollute. This includes farmers as well as other businesses, government, municipalities and private citizens.

Proactive approach to environmental concerns

OCA position:

- As a member of OFEC, we support the development and use of local agriculture advisory committees. These committees must include farmer representation. These committees would be the first points of contact for citizens with concerns related to environmental practices on farms. The committees would play a mediation role and when necessary, pass cases onto a provincial agency for enforcement.
- OCA also supports the concept of an environmental helpline to deal with citizen concerns (much like the successful OFAC animal welfare helpline) as well as to connect willing landowners with information and resources.

Development of regulations

OCA Position:

- Regulations must focus on risk reduction as opposed to risk elimination. Any regulation attempting risk elimination will fail and, in many cases, cause undue economic hardship to individual producers and/or industry segments.
- All proposed regulations for agriculture operations must be subjected to both economic and environmental impact analyses prior to implementation. This is consistent with the provincial government's approach with respect to reducing greenhouse gas emissions for which detailed work has been undertaken to analyze the impact of potential controls and regulations on the growth of Ontario's economy. The environmental and economic impacts of regulations for agriculture operations must be known and where needed, financial incentives and compensations put in place.

Implementation

OCA position:

- Implementation should be phased in with the determining factor being total nutrient production / use. A timeline of five years would be appropriate.

Categories of farms

OCA position:

- Using livestock units, as a means of categorizing farms is unacceptable. This measurement is weighted toward odour production and is not meaningful for regulations targeted to nutrient and pathogen control. A new measurement must be developed that is specific with respect to actual nutrient production while addressing changes in livestock genetics and management over time. In order to obtain a meaningful number, density of livestock (units per acre) needs to be considered rather than just total number of livestock units. Any new measurement must be based on scientific data so as to be defensible.

- A very clear distinction must be made between livestock production systems that are confinement based (poultry, swine) and those that are grazing based (beef cow-calf, sheep). For example, regulations related to manure storage (240 days) based simply on number of animals is meaningless for grazing based operations where manure is spread by the animal itself for much (6 to 12 months) of the year.

Requirement for nutrient management plan

OCA position:

- We support the requirement of all nutrient managers (not just those in agriculture) to complete a nutrient management plan. These plans need to account for all lands used by nutrient managers whether they are owned, leased or otherwise.
- Nutrient management plans should not be required to be in electronic format. A summary of each nutrient management plan, following a standard format, should be prepared as the public document. Full nutrient management plans may contain proprietary information and should remain confidential other than for audit purposes.

Third party review of nutrient management plans

OCA position:

- The province, specifically OMAFRA, should continue this service.
- The review service must be available to all producers who require it and not just prior to building construction.
- There should be no cost to the producer for this service.

Audit

- For most agricultural commodities, additional costs associated with the Nutrient Management Act cannot be recovered from consumers. There will need to be a concentrated extension effort regarding the Act and associated regulations.

OCA position:

- OMAFRA should perform the audit function of nutrient management plans and implementation of same. Tied closely to the audit function should be an effective extension component. This will require an increase in resources available to OMAFRA.

Enforcement

- Cases of pollution will remain the jurisdiction of Ministry of the Environment through the Environmental Protection Act as well as Environment Canada and Department of Fisheries and Oceans through the Fisheries Act. Enforcement of the Nutrient Management Act will involve cases of non-compliance with approved nutrient management plans. There would be some efficiencies to be gained with one organization performing both audit and enforcement roles.

OCA position:

- Enforcement can only be successful with the following key elements: a consistent approach; qualified and knowledgeable staff and sufficient resources. OMAFRA should be considered as a viable option for ensuring enforcement of the Nutrient Management Act.

Penalties:

OCA position:

- Penalties must be sufficient to ensure change occurs. The Act sets appropriate levels of penalties.
- A clear schedule of fines needs to be in place, considering specific offence, size of operation, landowner due diligence, willingness to make changes along with the nature of the offence

Powers of inspection

OCA position:

- As written, the Act gives sweeping powers to inspectors to enter premises. The recent Foot and Mouth outbreak in the UK rose the awareness of biosecurity. This must be addressed through reference in the Act as to proper procedures for inspections.
- The Act provides the opportunity for delegation of the auditing function. This could lead to differing implementation across species since some commodity organizations have field staff that could take on this role while others do not.

Financial incentives

OCA position:

- Financial incentives are essential and must form a major part of the government's overall approach. Changes made with societal benefit as an objective must be funded by society at large.
- Costs associated with third party review, audit, hydrological study, facility upgrades, etc must not become an undue burden on producers.
- Access to funds should be through an expanded and permanently funded Environmental Farm Plan program.

Exemptions

- There are likely to be several regulations for which existing operations must be exempted. An obvious example would be the siting requirements of farm buildings with respect to waterways. A great number of barns, built several decades ago, were sited close to water with good reason. It would be totally impractical to require movement of these buildings.

Access to watercourses

Fencing of livestock from watercourses is an obvious yet simplistic approach with large implications to producers and to the beef industry. Fencing is the appropriate action in many cases, however, use of other, more practical, best management practices are proven to be effective.

Due to the effects of ice movement in springtime, permanent fencing of watercourses would incorporate many acres of floodplain. This land has been used effectively as pastureland for generations. A fencing requirement could lead to this land being lost from production (a direct economic loss to the landowner) or, worse, being broken up for crop production leading to increased sedimentation and nutrient loading of watercourses.

OCA is leading the development of Best Management Practices for Buffer Strips on Farms. This project has all key stakeholders as contributing partners. These include Canadian Cattlemen's Association; Dairy Farmers of Ontario; Environment Canada; Department of Fisheries and Oceans; Ducks Unlimited; Ontario Federation of Anglers and Hunters; Wildlife Habitat Canada; Grand River Conservation Authority; Ontario Ministries of Agriculture, Food and Rural Affairs, Environment and Natural Resources. In addition, OCA and Ontario Sheep Marketing Agency were recently granted \$150,000 through the Agriculture Environment Sustainability Initiative to implement best management practices on farms with watercourses.

OCA position:

- Regulations should not include a requirement for fencing of livestock from watercourses. The Best Management Practices for Buffer Strips on Farms book will identify those situations where fencing is necessary and, for other situations, which best management practices are acceptable as due diligence in protecting water quality. The issue of livestock access to watercourses should be dealt with in individual nutrient management plans to account for individual farm situations. The focus should be the avoidance of livestock standing in water rather than having access to watercourses.
- Consideration should be given to a lowered assessment (for tax purposes) for any lands removed from agriculture production as a result of regulations under the Nutrient Management Act.

Research and education

OCA position:

- OMAFRA should commit increased funds for nutrient management research. Industry partners must work together to determine the specific priority areas for research.
- All industry partners, including OMAFRA, should focus increased resources on the development and extension of Best Management Practices.
- There is a need for a coordinated extension effort across all commodity groups with strong support (funds and personnel) from OMAFRA.

Legal precedence

The issue of capping the size of operations based on number of livestock units is very real. A recent OMB ruling stated that municipalities have the right to impose a cap on the size of livestock operations. OCA is involved in an appeal of this decision as it could strike a serious blow to the entire animal agriculture industry in Ontario. Like most other business types, farming has followed a long-term trend toward fewer numbers of producers, whose operations are larger in size. This has been driven by the need to compete in a global marketplace. The real issue is not one of size but one of good management including nutrient storage, handling and spreading on an appropriate area and type of land.

OCA position:

- The Act currently deals with provincial regulations superceding municipal bylaws. Issues such as the cap on number of livestock need to be addressed effectively through this means.
- Municipalities must be prevented from using the Municipal Planning Act to set local requirements different from those outlined in the Nutrient Management Act. Such changes would render the Nutrient Management Act futile.