

OCA Position on Stage Two regulations of the Nutrient Management Act (Bill 81) - submission to the EBR, January 31, 2003

Bill 81, the Nutrient Management Act is one of the most influential pieces of legislation in the history of Ontario agriculture. It will affect every single agricultural producer. It will cause many to rethink their future in the business. It will require those choosing to remain in agriculture to meet rigorous standards of production, most often at a significant cost. The Act will also give society the assurance they seek that the agriculture industry is doing its very best to ensure clean water and a healthy environment.

Agriculture is big business in Ontario and generates not only a reliable source of healthy affordable food but also jobs and economic wealth for the Ontario economy. Changes in demographics over the last few decades have brought us to a situation in which 98% of Ontario's citizens are disconnected from the farm, many by several generations. There is a generally poor understanding of both farming and of the stewardship efforts of the agricultural community. From this poor understanding, a multitude of municipal bylaws have arisen that have the effect, if not the intent, of forcing agriculture out of business, at least in any competitive fashion. Agriculture needs Bill 81. Several commodity groups, including the Ontario Cattlemen's Association, have been very supportive of the introduction of the legislation.

The Reality of Farming

Farmers today face many pressures including the implementation of food safety programs, effects of the US Farm Bill, and subsidization programs in competing jurisdictions (e.g. Quebec). The impacts of Bill 81 will be cumulative to those mentioned above. The livestock sectors are affected by Bill 81 to a far greater degree than are producers of other commodities like crops. Within the livestock sector, non-supply managed livestock producers are by far the most affected as they have no way of capturing increased costs from the marketplace. The beef industry is the largest of the non-supply managed livestock commodities with over 20,000 producers spread across all parts of Ontario. Both cow calf and feedlot sectors of the beef industry operate on low margins and so have very little investment potential in order to comply with new regulations. In fact, based on returns per head, a feedlot operator finishing 700 head lost over \$250,000 in 2002 alone.

Ontario beef producers compete in a global marketplace. There is a tremendous amount of trade of cattle within Ontario from competing jurisdictions, particularly from Quebec and Alberta. When introducing regulations affecting beef producers in Ontario there must be careful assessment of how they will allow Ontario beef producers to be competitive. Failure to do so will have serious impact on two fronts:

1. Loss of a portion of the \$1 billion in annual farm cash receipts from beef production. This would also result in a negative spin off effect on the economy (e.g. processing industry) with lost economic stimulus as well as a direct loss of jobs.

2. Loss of any significant percentage of beef producers would have serious negative impact on the economy and social fabric of rural Ontario. This would be a particular issue in Eastern and Northern Ontario where a greater portion of wealth generation comes from agriculture.

The Competition

The issue of nutrient management is not unique to Ontario. Recent developments in the United States clearly indicate government recognition of the importance of agriculture and a focus on maintaining agriculture as an economic driver. US Agriculture Secretary Ann Veneman describes the attempt to ensure economic viability for their producers:

"The new rule is unique in that it comes after unprecedented cooperation between EPA and USDA to find a way to help producers meet their own and society's goals for environmental quality and profitability," said Veneman. "USDA stands ready to provide assistance in an incentive-based approach combining information and education, research and technology transfer, direct technical assistance and financial assistance through the Environmental Quality Incentives Program (EQIP) and other farm bill programs." The EQIP was authorized at \$200 million in 2002 and will ultimately go up to \$1.3 billion in 2007."

Beef producers in Quebec benefit from a co-insurance program that ensures a minimum return equal to the calculated cost of production, including a return for labour. Annual government contribution to this program over the last ten years has averaged \$42,309,597 and \$11,357,217 dollars for beef cows and finished animals respectively. To put this in context, a cow calf producer with a herd of 50 cows would have received an average of \$10,480 per year while a feedlot producer marketing 500 head would have received \$59,356 per year. Ontario producers compete directly with producers who enjoy this insurance, or industry development, program. Obviously there is a great deal of pressure on Ontario producers to maintain low cost, efficient operations. Costs associated with Bill 81 will affect this status.

The Acid Test

OCA supports Bill 81 and associated regulations that pass three tests. Regulations must be proven to be needed, be based on risk management and must allow Ontario farmers to remain economically viable. Draft regulations that do not pass these three tests must be abandoned or revised in order that they do pass the tests. OCA staff and directors have worked very closely with staff of the Ministry of Agriculture and Food toward regulations that meet the needs of both the Ministry and beef producers. The attached document provides an extensive analysis of every draft regulation proposed in stage II vis a vis the three tests. We have indicated changes to regulations that would make them workable for producers.

Specific Areas of Concern

1. The Minister of Agriculture and Food should immediately implement a Nutrient Management Implementation Advisory Committee to provide advice and ensure **continuous improvement** of the regulations and protocols. Farming involves biological processes, weather and evolving technologies. Regulations will require constant review and improvement to account for these factors. The committee would identify research needs, review implementation and education efforts, identify and assist in resolution of problem regulations and help to find the balance of environmental protection and economic viability. The agriculture community must have adequate representation on this committee.
2. The **approach taken by enforcement officers** may be as important as the regulations themselves. Clearly there is a need for an approach that addresses the many factors that can affect a farm on a daily basis. There must be a clear protocol for dealing with complaints, particularly those of an anonymous nature. This protocol should be given high profile and prominence. In recognition of the importance of the inspection staff and the approach that they take, OCA has offered to be involved in both the hiring and training processes.
3. In order to ensure economic viability of Ontario producers, a significant **compensation program** must be created. As indicated above, there is little or no opportunity for producers to recoup the costs associated with Bill 81 from the marketplace. Funding should focus on producers most affected with particular emphasis on those changes required that are based on a precautionary principle (e.g. secondary containment for liquid manure tanks) or are specific to producers simply due to their location (e.g. within the two year capture zone of a municipal well). Funding must be guaranteed for a minimum of five years to ensure availability as different categories of farms are phased into compliance.
4. **Outdoor feeding areas and depth to bedrock** are issues that, if addressed through regulations as initially released, would have devastating effects on cow-calf producers. This impact would be largest in Eastern and Northern Ontario. This is of particular concern as agriculture represents a higher portion of wealth generation and job creation in those regions of Ontario.
5. **Winter manure spreading** is a practice that draws attention due to its visible nature. There is evidence that improper winter spreading can negatively impact on water quality. It is, however, an important management practice to producers and, given the appropriate site characteristics, can have minimal impact. Regulations should focus on site characteristics as much as possible and leave room for continuation of winter spreading where impact is minimized. This would be documented through an individual's nutrient management plan.
6. Snow and frozen materials are routinely removed from feedlot yards. These **feedlot yard scrapings** are generally dilute with respect to nutrients and are difficult to store in any realistic fashion. Producers require the ability to spread these materials within the parameters as outlined in their nutrient management plan. OCA is involved with a research project that will assist in identifying the nutrient load of these materials.
7. Temporary **in-field manure storage** is an economical management practice that, when used with a focus on selection of an appropriate site, has minimal impact. The proposed maximum time for piling (60 days) is simply not realistic. With a

- focus on site selection (again documented in a nutrient management plan), the maximum time allowed for in-field piles needs to be much higher.
8. OCA has been very active in leading the development of a Best Management Practices book dealing with Buffer Strips on Farms. Key to any regulation dealing with **buffer strips** is the definition of a watercourse. The proposed definition under Bill 81 seems to be appropriate. Also important is compensation for lands retired as part of a buffer. Again, our competition (US, etc) have well financed and supported buffer programs. Our BMP for Buffers Strips on Farms deals clearly with the issue of livestock access to waterways. It will include a site assessment that landowners can use to decide whether fencing is required and, if not, what other BMP's to consider in order to minimize impact. We have been developing this book with full cooperation of all relevant federal and provincial ministries, commodity organizations and environmental organizations. We look forward to full recognition of this approach in stage III draft regulations.
 9. In order for a landowner to assess his property, complete a nutrient management plan and address the requirements of regulations, they will require a great deal of **data**. This will include soil type and depth, location of wells, area of two-year capture zones, etc. Producers must have free access to this data in an efficient manner.
 10. There will be a tremendous need for **education** as the regulations come into effect. OMAF should provide free telephone access to staff with in depth expertise on the regulations and their applicability to a variety of farm situations. Unquestionably, these calls will also identify situations and ideas that had not been considered. These should be referred to the Nutrient Management Implementation Advisory Committee for consideration. Concise, easily understood written materials are needed to help farmers understand the impact of the regulations on their particular farms.
 11. The proposed regulations dealing with a **Nitrogen index** would prove extremely limiting to currently accepted agronomic practices. We request that all regulations dealing with the Nitrogen index be deferred to stage III in order to ensure adequate analysis.
 12. The regulations do account for some of the differences between housing based and grazing based agriculture systems. We suggest that stage III regulations include a section dealing specifically with grazing based operations. Key to this section would be the development of a **grazing management plan**. This plan would address concerns related to: the suggested soil testing requirement where no additional nutrients are added; the fact that "expansion" should not include situations involving an increase in the number of animals; rental situations in which the landowner has no interest in paperwork.

If you have questions regarding this submission, please call Mike McMorris, Executive Director, at (519) 824-0334.