

CFFO Response to Phase Two Regulations Made under the Nutrient Management Act, 2002

1. An Unwelcome Shift in Direction for Nutrient Management

Whereas the original concept adopted five years ago by the Ontario Farm Environmental Coalition (OFEC) proposed formal nutrient management plans based on the essentials of balancing nutrients and crop needs for farms expanding to more than 150 livestock units¹.

Whereas CFFO was a significant participant in developing the OFEC position and drafting OFEC's draft Nutrient Management Bylaw for municipalities.

Whereas most municipal bylaws in existence today are modeled on OFEC's draft bylaw.

Whereas the Phase Two Regulations have been designed to manage a much broader range of environmental issues than the nutrient/cropping balance. We note the following:

- "... clear, consistent standards for agricultural practices that impact upon the environment ..."²
- "... the best clean water policies in the world ..."³
- "... implementing all of Commissioner O'Connor's recommendations."⁴
- "... addresses the issues and risks identified in the Environmental Commissioner's special report of July 2000, 'The Protection of Ontario's Groundwater and Intensive Farming'⁵."
- "... builds on the government's Smart Growth Strategy⁶...."

Whereas Justice O'Connor (Walkerton Inquiry) recommended the establishment of "a minimum regulatory baseline or 'floor' for manure storage and handling that will apply to all farms"⁷ not a massive regulatory regime.

Whereas the Phase Two Regulations have been developed with agendas other than managing livestock manures and crop production in an environmentally balanced way. We note the following:

- There is no limit allowed on how far manure is generated from the land on which it is to be applied⁸. This is aimed at municipalities that would like to regulate hauling distances.
- All farms, no matter how small their livestock enterprises or hobbies must comply with the regulations⁹. This is in response to the mistaken notion that size is irrelevant and that all farming poses environmental risks depending on the quality of the management.
- The regulations include washwaters, by-products of on-farm processing and leachates¹⁰. This is more about waste disposal than meeting crop needs.

¹ Expanding farms with 50 livestock units on small acreages (more than 2 livestock units per acre) were also included in the OFEC proposal.

² News release issued with the draft regulations, November 26, 2002.

³ Ibid.

⁴ Ibid.

⁵ Backgrounder issued for the consultations on the draft regulations, November 26, 2002

⁶ Ibid.

⁷ Report of the Walkerton Inquiry: A strategy for Safe Drinking Water, page 132.

⁸ Regulation 1.4 (1) 7.

⁹ Regulation 1.5 (1)

¹⁰ Regulation 1.6 (1) 2, 3, 4, and 6

- Restrictions on farm animal numbers in an agricultural operation is prohibited¹¹. This is aimed at municipalities that may try to regulate agriculture through maximum size bylaws.
- The odour of livestock manures will be regulated¹². This is aimed at municipalities that may try to regulate through odour management.
- Setbacks for nutrient applications from wells, buildings and watercourses will create a major impact on every farm.

Whereas each additional agenda and each environmental issue has added complexity to what started out, as a very practical concept of balancing nutrients and crop needs.

Whereas we now have an act and regulations that are trying to become a comprehensive resource management strategy for all of agriculture using the on-farm nutrient management plans as the base. This adds a lot of unnecessary complexity to nutrient management planning.

Whereas this shift in direction results in an approach to resource management that is flawed. There are more effective, simpler to manage and less costly to deliver approaches to comprehensive resource management, specifically: setting caps on farm size, limiting livestock densities in sub-watersheds and linking livestock manure production to land ownership.

Whereas Ontario agriculture cannot adopt a major commitment to enhance the long-term quality of our countryside without a permanent new source of income. Farmers will bear significant costs or give up income opportunities as a result of the proposed regulations.

Therefore be it resolved

THAT CFFO call for a time out and a reassessment of the resource management approach that is being enshrined into law by the Nutrient Management Act.

THAT the act tries to do too much through the one window of nutrient management strategies and plans.

THAT CFFO recommends that the Act and its regulations be divided into two parts:

- a) one that requires all farms with more than \$7,000 in gross farm sales¹³ to maintain formal nutrient management plans and have them certified by an independent crop advisor¹⁴ and
- b) one that enables resource management through a combination of environmental payments and standards for land-based activities.

¹¹ Regulation 1.8.

¹² Regulation 9.20 and 9.21.

¹³ Any farm that is required to register as a farm business.

¹⁴ Independent crop advisors means a certified crop advisor that is not employed by a farm input supplier.

2. Keep Nutrient Management Focused on the Balance Between Nutrients and Crop Needs

Whereas nutrient management plans are a valuable tool for all farmers.

Whereas nutrient management plans focused on the balance between nutrients and crop needs will have a high level of positive impact on the cash flow of many farm business.

Whereas nutrient management plans are a valuable tool for managing the on-farm risk of applying livestock manure to land:

- the risk of applying too much manure when there is no crop growth to manage the manure's environmental impact;
- the risk of applying too much manure under specific soil and weather conditions and
- the risk of applying manure to a lot of land in a very short period of time in one sub-watershed.

Whereas CFFO continues to support the need for formal on-farm nutrient management plans for all farms with more than \$7,000 in gross farm sales.

Whereas CFFO does not support using nutrient management plans as the context for a wide range of resource management initiatives.

Whereas existing municipal nutrient management bylaws have already demonstrated that nutrient management plans focused primarily on the balance between nutrients and crop needs works.

Therefore be it resolved

THAT the Nutrient Management Act be rewritten to accomplish what is now included in the OFEC model nutrient management bylaw and not a lot more.

THAT the primary addition should be making the commitment to balance nutrients with crop needs on our farms enforceable.

3. The Need for an Agricultural Resource Management Strategy that Starts with Environmental Payments

Whereas adopting farm practices geared towards resource management and environmental enhancement will cost farmers money or result in forgone opportunities.

Whereas many of the regulations now in draft form under the Nutrient Management Act could function just fine (perhaps better) without the context of nutrient management plans.

Whereas the proposed extensive regulations¹⁵ are farm practice standards and could be enforced quite independently of anyone going to all the work of developing and maintaining a Nutrient Management Strategy/Plan.

Whereas many of these proposed regulations may incidentally influence the on-farm nutrient/cropping balance but they are not necessary for that balance to function.

Whereas when we started on the road to nutrient management plans we did not expect it to turn into a Farm Standards Act.

Whereas municipalities need a defined role in resource management and enhancement of our countryside.

Whereas municipalities should have the right to adopt standards that are more stringent than the provincial minimums provided that there exists a process that requires municipalities to consult on the need to modify provincial standards and demonstrate that there are local needs that make the modification important.

Whereas provincial regulations that set minimums and maximums are appropriate in guiding the scope of municipal customization.

Whereas effective resource management by agriculture needs to start with basic standards for farm size, livestock density and land ownership for manure application.

Whereas the potential risk of environmental degradation caused by livestock agriculture will increase without effective standards for farm size, livestock density and land ownership for manure application.

Therefore be it resolved

THAT CFFO recommends the development of an Agricultural Resource Management Act (a standards act) that functions independently from nutrient management plans and applies to all activities on rural land, regardless of who the actor is.

THAT this act:

- a) provide for implementation through the creation of annual environmental payments for the adoption of specific activities that manage our resources and enhance our environment; and**
- b) identify a significant role for municipalities in its implementation.**

¹⁵ Our argument that these regulations can function very well and perhaps better without the context of nutrient management plans does not mean that we support the enactment of all these regulations.

4. Concerns Raised by CFFO Members at CFFO's Committee Meetings

Note: The following concerns were raised but not debated or adopted at CFFO's member think tanks during January 2003. Four such meetings were held: Stewardship and Policy West (January 16), Stewardship and Policy East (January 17), Sheep Producers (January 21) and Pork Producers (January 24). All meetings were well attended.

- a) There is no recognition that manure is a superior source of nutrients.
- b) There is a high risk of many farmers not being in compliance with their nutrient management plan.
- c) Compliance will not be based on farmers creating the best nutrient/cropping balance they are capable of under the circumstances but on whether they did what they wrote in their plans.
- d) There is no way to feel comfortable with the regulations because we do not know what it takes to meet due diligence standards. It is impossible to prove that you did not do something.
- e) Many farmers are not large enough to be part of problem but they are expected to be part of the solution.
- f) The nutrient management regulations will drive smaller farmers out.
- g) The regulations will result in many dollars spent but we will only put a small dent in the problem. Farmers will be doing a lot for little gain for our environment.
- h) Since the program will be complaint-driven, farmers will shoulder the burden of proof. The cost of defending oneself will be the primary penalty.
- i) If we keep a log of our farming activities, including amounts applied and crops harvested plus regular soil tests, what more is really needed for due diligence.
- j) Beef production on shallow soils, on bush land and in yards or barns on bedrock face no-win regulations.
- k) The regulations must not restrict winter feeding in pastures or yards. Sheep producers have less lambing problems if sheep have to walk a distance to feed.
- l) If this program really works for the environment it should force more farmers to rotate crops, but it will not. We will see more continuous corn once phosphorous levels are at their limits because only corn will remove enough phosphorous to support economical manure spreading.
- m) If on-farm manure management is made too difficult, the nutrients will be lost to the countryside. The manure will be processed and sold to the cities.
- n) Anyone who wants to rotational graze is in big trouble with the regulations.
- o) The fact that level of risk to the environment is related to the type of nutrients and the amount of nutrients is lost in the detail.
- p) In some parts of the province there are more pluses than minuses for winter spreading manure. Avoiding compaction is one example.
- q) What the regulations require on tile drained land will result in no more new tile drainage going in.
- r) There's an assumption in the regulations that all our manure storage tanks are going to leak. Requiring paid inspections is over-the-top unnecessary.
- s) Steel and concrete solutions are not the important ones. We need biological solutions.
- t) Buffer strips for all surface waters are not supported. Increased buffer strips because of slope are not supported. The issue is management practices that do not allow nutrients to escape into surface water. The most significant factor for making sure the nutrients do not move is the maintenance of quality soil not distance.

- u) Management practices should have an impact on the need for buffers and setbacks. Using an air induction nozzle versus a flat nozzle should make a difference. Banding fertilizer versus broadcasting fertilizer should make a difference.
- v) There is a desire to use irrigation guns in contingency plans
- w) As it stands Category IV, starting with 300 Nutrient Units, will include many typical family farms and in the public's mind these will be included in the so-called mega-farm designation. Category III should be changed to the range of 150 to 500 Nutrient Units as we recommended in our Phase One response.
- x) The environmental farm plan already addresses many of the issues. The nutrient management regulations will be less effective than the Environmental Farm Plan.
- y) The act does not include carbon. Managing carbon is just as important as the other nutrients and especially for greenhouse gases.
- z) The result of the regulations will be price increases for land and make us less competitive.
- aa) The Director has too much power.
- bb) It's almost impossible to prove that farmers pollute so government is creating many non-pollution offences.
- cc) The timeline for implementation should be based on the financial assistance being available.
- dd) Cost sharing should emphasize soft help for management changes, biological solutions and doing nutrient management plans with 2/3's paid by governments. Hard solutions, meaning steel and concrete, should be cost-shared at a lower level—40%.
- ee) First, the existing regulations against pollution should be better enforced.
- ff) There are many others in our countryside that should share in improving nutrient management: cottagers and golf courses for example.
- gg) There is a much more effective way to do nutrient management: clearly state what the end results need to be for the environment on and around our farms and let farmers be ingenious in how they run their business to get there. The concept of initiative and individual judgment is being lost.

**Adopted
Provincial Board¹⁶
Christian Farmers Federation of Ontario
January 29, 2003**

¹⁶ The CFFO Provincial Board is made up of delegates from our 23 District Associations across the province and our Executive Board. Typical participation: 30 family farm entrepreneurs.