

ONTARIO

OPEN for Business



BUSINESS SECTOR STRATEGY: AGRICULTURE AND AGRI-FOOD

Created with:

**Ontario Federation of Agriculture
(OFA)**

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Open for Business is Ontario's initiative to create faster, smarter and streamlined government-to-business services and to establish a modern system of government by 2011. It's a key part of the Ontario government's commitment to make the province more attractive to business while continuing to protect the public interest.

Open for Business has three key areas of focus:

Modern Government – create a streamlined and focused regulatory environment that delivers results for business, while protecting public interest

Modern Services – deliver better products, including service standards that support business needs

New Relationship with Business – create an open and responsive working relationship between business and government

Ontario's Business Sector Strategy

One of the ways Open for Business is implementing a new relationship with business is through the Ontario Business Sector Strategy, which establishes an open dialogue and collaborative relationship between government and key business stakeholders.

Under the strategy, sector representatives are asked to identify five priorities under jurisdiction of the provincial government that would strengthen their sector's success. Ministries have two months to address these priorities, or explain why they cannot be addressed and deliver alternative solutions. This joint understanding of priorities allows government and the business sector to work together more effectively to generate economic growth, create jobs for Ontario families, and protect the public interest.

Open for Business is responsible for working with ministries to ensure progress and resolution of each sector's issues within appropriate timelines.

Agriculture and Agri-Food Sector

Ontario's agriculture sector employs approximately 164,000 people, and farm outputs contributed \$22 billion in gross economic stimulus to Ontario in 2009¹. Additionally, Ontario's food and beverage processing sector, a vital part of the agri-food value chain, is a \$34 billion industry, employing over 110,000 directly and over 100,000 Ontarians in related industries². During the sector strategy process, the agriculture and agri-food sector was consulted broadly and represented by the Ontario Federation of Agriculture (OFA), the largest general farm organization in Ontario, representing 38,000 members.

¹ www.ofa.on.ca (accessed June 17, 2011)

² Ontario Ministry of Research and Innovation, "A Global Hub for Food Processing – Agri-Food Asset Map: An Analysis of Ontario's R&D Excellence and Commercialization Capacity in Food Processing," 2011.

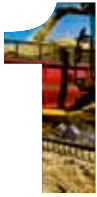
The Agriculture and Agri-Food Sector and Ontario's Business Sector Strategy

The first day of March 2011 was marked by the kick-off roundtable for the agriculture and agri-food sector. After being welcomed to the Legislature by the Minister of Economic Development and Trade, Sandra Pupatello, business leaders from the sector tabled their priorities. As one would anticipate from such a diverse sector, the priorities spanned various issues. As a result, while two ministries—Agriculture, Food and Rural Affairs (OMAFRA) and Environment—were identified to lead the process, a number of other ministries played important supporting roles in responding to the sector's priorities during the two months following the initial roundtable.

On May 4, 2011, senior members of the OFA and other business leaders from the sector joined Minister Pupatello and deputy ministers, assistant deputy ministers, political staff and personnel from key ministries at the final roundtable. "In bringing business together with the right ministries and high-ranking bureaucrats to address issues and arrive at solutions, we've created an approach that will avoid unintended consequences of government regulations," said the Minister. "We're beginning something that will bring continuous improvement to the way the government does business."

Executive Summary

OFA's Top Five Priorities



PRIORITY 1: Mandatory, Early Consultative Process for New or Developing Regulations that Include Regulatory Impact Analysis

Through a broad consultative process, the OFA identified three regulatory issues that negatively impact their sector's business: regulatory inconsistency, duplication and overlap, and unintended consequences of regulation. As a result, the OFA recommended that OMAFRA adopt an inclusive consultative model that actively involves the agriculture and agri-food sector in the regulatory development process. This will provide an opportunity for proposed regulations to be tabled and discussed, including the impact on the sector, and will serve to engage the sector on evolving issues. It was further suggested that a component of the consultative model included a requirement for other ministries to consult with OMAFRA on issues that may impact the agriculture and agri-food sector. Additionally, the OFA asked that the government create a framework to help define modern farming practices for ministries amending or developing new regulations.



PRIORITY 2: Ensure Efficient and Effective Regulations

To ensure that “regulations efficiently and effectively serve the intended purpose”, the OFA recommended that OMAFRA establish and coordinate an on-going, joint government-industry working group to review existing regulations that pertain to the agriculture and agri-food sector and initiate or recommend revisions to outdated or ineffective regulations.



PRIORITY 3: Consistent and Accurate Interpretation of Regulations across Ministries

The OFA requested more consistency and accuracy among ministries when dealing with inspection and enforcement situations. The OFA recommended that OMAFRA act as a point of contact for other ministries to consult with on agriculture and agri-food related issues, and asked that OMAFRA identify a mechanism to address questions regarding regulatory enforcement.



PRIORITY 4: Service Standards that Streamline the Licencing, Permitting and Approvals Process

The agriculture and agri-food sector requested that the government adopt a process to accelerate the finalization of drainage project permits, as well as Certificates of Approval and Permits to Take Water, ensuring that these are processed within six weeks of a ministry's receipt of a complete application. Additionally, the OFA asked that the time and expense associated with drainage project appeals that some consider ‘frivolous and vexatious’ be addressed.



PRIORITY 5: Regulatory Compliance Incentives

The OFA noted that “it is widely held that the intent of government is to enforce regulatory compliance through inspection and penalty rather than utilizing alternatives to encourage good operating practices.” As a result, the sector recommended that OMAFRA review the compliance requirements of regulations to identify ways and means of encouraging or incenting regulatory compliance and therefore minimize the need for enforcement and penalties.

Executive Summary

Government Response to OFA's Top Five Priorities



PRIORITY 1: Mandatory, Early Consultative Process for New or Developing Regulations that Include Regulatory Impact Analysis

OMAFRA agreed to facilitate an ongoing annual or semi-annual government-industry forum to discuss upcoming government regulatory activity, and provide an opportunity for early engagement and input. The inaugural meeting is planned for the fall of 2011. Through a phased implementation, Ontario will introduce a mandatory regulatory economic impact assessment tool across all ministries that will enhance stakeholder input and ensure consistent and reliable analyses. OMAFRA, in collaboration with the OFA, has developed and introduced a guide for provincial policy and operations staff to use when dealing with farm practices, such as defining 'agriculture' or identifying activities categorized as 'agricultural' for a specific policy or operations purpose. In addition, the Ministry of Finance will conduct forums with municipal, farm and government representatives as well as the Municipal Property Assessment Corporation to discuss new or emerging issues relating to farm property assessment.



PRIORITY 2: Ensure Efficient and Effective Regulations

OMAFRA is developing a regulatory modernization plan and will establish criteria to determine when and why regulations should be reviewed. An internal review will be conducted by the end of 2011. Industry engagement on the cycle of review and prioritization of regulations to be reviewed is anticipated by the end of 2011. Sector representatives will be invited to bring forward specific OMAFRA regulations to the OMAFRA-facilitated government-industry forum established in Priority 1 to discuss the continued relevancy of these regulations.



PRIORITY 3: Consistent and Accurate Interpretation of Regulations across Ministries

OMAFRA agreed to enhance ongoing dialogue with sector associations and noted that the government-industry forum (Priority 1) will help to facilitate improved inter-ministerial communications, resulting in more consistency and accuracy in regulatory inspection and enforcement decisions across the government. Additionally, by the summer of 2011, OMAFRA will designate an information and referral source via the existing ministry call centre for sector operators with questions on inspection and enforcement activities. Lastly, the Ministry of Economic Development and Trade – Open for Business, in collaboration with other regulatory ministries, will work on initiatives to promote a risk-based and compliance-focused approach to inspection and enforcement that focuses on the desired outcome— a safe, healthy and fair Ontario.

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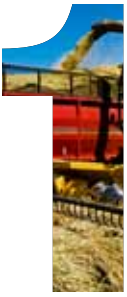
PRIORITY 4: Service Standards that Streamline the Licencing, Permitting and Approvals Process

The Ministry of the Environment is collaborating with the sector to improve turnaround times and efficiencies in processing Permit to Take Water applications and to develop guidance materials and plan outreach activities. Additionally, the ministry is providing guidance and support to the agri-food industry through site specific examination of certificate of approval applications. To address concerns regarding drainage projects, OMAFRA noted that the *Drainage Act and Conservation Authorities Act Protocol*, intended to streamline the permitting process for the maintenance and repair of existing drainage projects under the *Conservation Authorities Act*, is in final draft form. Furthermore, Fisheries and Oceans Canada, OMAFRA, the Ministry of Natural Resources and the OFA are developing a guide to help streamline and expedite agency approvals for sector drainage work that falls under both the federal Fisheries Act and the provincial *Drainage Act*. In addressing ‘frivolous and vexatious’ appeals on drainage projects, OMAFRA clarified the existing provisions for business to recover the cost of these appeals and will advise the OFA on how to request improved communication products from the Agriculture, Food and Rural Affairs Appeal Tribunal.



PRIORITY 5: Regulatory Compliance Incentives

OMAFRA agreed to discuss changing behaviour through compliance incentives at the government-industry forum established under Priority 1. Additionally, the ministry will consider possible compliance incentives to prompt behavioural change as part of the planned regulatory review (Priority 2). OMAFRA's information and referral source at the ministry's call centre (Priority 3) will provide stakeholders with compliance resources, as well as information on their regulatory rights and obligations. Finally, Ministry of Economic Development and Trade – Open for Business, in collaboration with other regulatory ministries, will work on initiatives that will promote a risk- and compliance-based approach to inspection and enforcement that focuses on the desired outcome—a safe, healthy and fair Ontario.



Priority I

Mandatory, Early Consultative Process for New or Developing Regulations that Include Regulatory Impact Analysis

Through a broad consultative process undertaken by the OFA with members of the agriculture and agri-food sector, the following issues were identified as having a negative impact on their business environment:

- Regulatory inconsistency
- Duplication and regulatory overlap
- Unintended consequences of regulation

As a result, the OFA recommended that OMAFRA adopt an inclusive consultative model that involves the agriculture and agri-food sector in the regulatory development process—both before regulations are drafted and throughout the drafting process – to determine the most effective means of achieving desired outcomes.

It was further recommended that a component of the consultative model include a requirement for other ministries to consult with OMAFRA on issues that may affect the agriculture and agri-food sector.

The OFA also requested that OMAFRA facilitate and lead a forum for the agriculture and agri-food sector to table and discuss proposed regulations and possible impacts on the sector, as well as evolving issues.

Additionally, OFA asked that the government create a framework to help define modern farming practices for ministries amending or developing new regulations.

Government Response

(Lead: Ministry of Agriculture, Food and Rural Affairs; Associated Ministries: Economic Development and Trade, Environment, Finance and Labour)

In its response to the OFA's first priority, OMAFRA recognized the need for greater transparency in regulatory analysis through early and ongoing engagement with the agriculture and agri-food sector.

To this end, OMAFRA agreed to facilitate an ongoing annual or semi-annual government-industry forum to discuss upcoming regulatory activity and provide an opportunity for early industry engagement and input. During the forum, the government can clearly communicate the intent and rationale behind any proposed regulatory activity, as well as the anticipated responsibilities of the sector. In addition, the regulated community can also work with the government to determine the full range of impacts of proposed regulations. The inaugural meeting is planned for the fall of 2011.

As noted in the responses to the sector's remaining Priorities 2, 3 and 4 in the business sector strategy process, this regular meeting will provide an opportunity for improved communication and collaboration between the government and the agriculture and agri-food sector, allowing for open discussion on a full-range of issues affecting the sector.

The Ministry of Economic Development and Trade/Open for Business is developing an economic impact assessment tool for phased implementation across all ministries that will:

- Include a standard analytical framework and toolkit to ensure more consistent analysis of the costs and benefits of proposed regulations on external stakeholders.
- Utilize standardized data for consistent and reliable analyses.
- Invite stakeholder engagement to inform the decision-making process.
- Apply to new and proposed amendments to regulations.

This standardized approach is consistent with other jurisdictions around the world and within Canada and will result in a more informed and transparent decision-making process.

Open for Business will also develop consultation principles to help strengthen the role of all stakeholders, including those in the agriculture and agri-food sector, in the regulatory development process. Principles will include, but are not limited to the following:

- Ensure timely consultation
- Provide clear communication of the consultation process
- Facilitate accessible consultation
- Minimize the burden of consultation
- Acknowledge and analyse consultation submissions
- Include a feedback mechanism

Early and continuous engagement with the sector throughout the regulatory development process will facilitate sector feedback, including identification of a broader range of the impact of regulations, more accurate data for determining the costs and benefits of a proposed regulation, and input into determining whether to regulate. This will result in a more informed and transparent regulatory development process as well as a consistent interpretation of regulations that apply to the agriculture and agri-food sector.

On a broader scale, a more sophisticated government approach to determining the effects of a regulation that considers the diversity and variability of the range of Ontario's industries will benefit stakeholders in all sectors across the province.

Similar to other sectors, agriculture has evolved over time by adopting new, innovative and specialized ways of operating, which has changed the 'look' of most farms today regardless of size. Further to the request to develop a framework to define modern farming, OMAFRA, in collaboration with the OFA, has developed a guide for provincial policy and operations staff to use when dealing with farm practices, such as defining 'agriculture' or identifying activities categorized as 'agricultural' for a specific policy or operations purpose. This new document highlights the diversity and complexity of Ontario's agricultural sector and the elements required in modern

and evolving farm practices to deliver a farm's commodity to market—all things to consider when assigning a definition of 'agriculture.' The guide also helps policy and operations staff identify when they may wish to access technical expertise from OMAFRA.

Finally, the Ministry of Finance has agreed to hold periodic meetings that will serve as a forum for discussing new or emerging issues relating to farm property assessment with a view to bringing clarity and consistency to assessment practices. Meeting participants will include farm representatives, municipal representatives, the Municipal Property Assessment Corporation, and government officials. Ministry staff will work with the OFA and OMAFRA during the summer of 2011 to develop terms of reference and to formalize meeting participants with the intention of holding the first meeting in the fall of 2011.



Priority 2

Ensure Efficient and Effective Regulations

In presenting this priority to the government, the OFA noted that “periodic regulatory review is a key aspect of regulatory modernization that is linked to government accountability. It is incumbent on the government to demonstrate that the regulations efficiently and effectively serve the intended purpose.”

To this end, the OFA recommended that OMAFRA establish and coordinate an on-going, joint government-industry working group to review existing regulations that pertain to the agriculture and agri-food sector and initiate or recommend revisions to outdated or ineffective regulations. The review would focus on regulations no longer serving their intended purpose and/or stifling innovation and the adoption of technology.

Government Response

(Lead: Ministry of Agriculture, Food and Rural Affairs)

OMAFRA advised that a regulatory modernization plan is currently being developed and invited sector representatives to participate.

Phase I of the plan’s development will establish criteria to determine when and why regulations should be reviewed (e.g., regulation no longer satisfies original goals, the sector has adopted new technology, etc.) and is targeted for completion by the end of December 2011. Phase II will include consultation with industry on the cycle of review and prioritization of regulations to be reviewed, and is anticipated to start by the end of 2011.

Sector representatives will be invited to bring forward specific OMAFRA regulations to the OMAFRA-facilitated government-industry forum established in Priority 1 to ensure the continuing relevance of these regulations.

It was also agreed that the agenda for the second meeting of the forum will include discussion of an OMAFRA regulatory review, and as with the forum’s first meeting, sector-identified regulations can be brought forward for discussion.

This response to the sector’s priority will ensure that regulations remain relevant and in-keeping with current business practices, while protection of the public interest is maintained.

Modernization of Wildlife Damage Legislation

During the business sector strategy process, the agriculture and agri-food industry representatives tabled concerns regarding wildlife damage legislation and programs under the *Livestock, Poultry and Honey Bee Protection Act*.

The Ontario government has worked with the sector to examine ways to modernize wildlife damage legislation and programs. This has led to the development of a proposed agriculture-wildlife conflict strategy which includes changes to wildlife damage compensation.

It is anticipated that the agriculture-wildlife conflict strategy with a new compensation program will be rolled out in 2011.



Priority 3

Consistent and Accurate Interpretation of Regulations across Ministries

The OFA reported that the inconsistent approach to inspection and enforcement – both within and across ministries – is an ongoing issue facing the agriculture and agri-food sector.

As a result, the OFA requested more consistency and accuracy among ministries when dealing with inspection and enforcement situations. The OFA recommended that OMAFRA act as a point of contact for other ministries to consult with on agriculture and agri-food related issues, and to act as a portal through which inquiries from sector operators on applicable regulations can be referred to the appropriate resource. In addition, the OFA recommended that OMAFRA identify a mechanism for dealing with questions from sector associations on regulatory enforcement to remain current on regulatory requirements impacting the sector.

Government Response

(Lead: Ministry of Agriculture, Food and Rural Affairs; Associated Ministries: Environment, Labour, Natural Resources and Transportation)

OMAFRA agreed to enhance on-going dialogue with sector associations and noted that the government-industry forum (Priority 1) will help improve inter-ministerial communications, resulting in more consistency and accuracy in regulatory inspection and enforcement decisions across the government. Specifically, the forum will:

- Facilitate discussion on systemic issues of inconsistent regulatory inspection and enforcement, as well as other cross-cutting cross-ministry issues that affect the sector.
- Allow OMAFRA to present best practices in inspector training for other ministries to consider, such as the involvement of regulated operators in inspector training.
 - OMAFRA will develop options to roll-out agriculture-specific training to enhance other ministries' inspector training (e.g., on-farm biosecurity training).
 - OMAFRA staff will be available to other ministries to participate in their training regimes to enhance awareness and sensitivity to the specifics of the agriculture and agri-food sector.

Self-Propelled Implements of Husbandry

In response to specific concerns regarding inconsistent interpretation of regulations regarding 'self-propelled implements of husbandry' (SPIH), the Ministry of Transportation advised that a review of the procedures and regulations regarding SPIH and how to conduct enforcement is part of the annual refresher training currently ongoing with all enforcement officers. This information will also be included in any new officer training in the future.

Furthermore, the Ministry of Transportation has directed their inspectors to contact the Carrier Safety and Enforcement Branch of the ministry with any questions or concerns regarding the interpretation of regulations affecting the farming community. Contact information for this branch will be provided to the OMAFRA call centre and can be relayed to any member of the industry with transportation-related queries.

- Provide an opportunity for other ministries to alert OMAFRA and sector representatives of any upcoming regulatory issues or actions that may affect the sector and allow for input to be gathered up front.

Additionally, by the summer of 2011, OMAFRA will designate an information and referral source through the existing ministry call centre for sector operators to contact with questions on inspection and enforcement activities. Through this channel, additional information will be made available to callers on inspection and enforcement activities.

Lastly, the Ministry of Economic Development and Trade – Open for Business, in collaboration with other regulatory ministries, will work on initiatives to promote a risk- and compliance-based approach to inspection and enforcement that focuses on the desired outcome— a safe, healthy and fair Ontario.

Through sharing training best practices between ministries, sector involvement in inspector training and the use of agriculture-specific training, increased awareness of, and sensitivity to, the agriculture and agri-food sector will be achieved. This will also result in more consistent and transparent overall enforcement outcomes.



Priority 4

Service Standards that Streamline the Licencing, Permitting and Approvals Process

In tabling their fourth priority, the OFA noted, “Service standards and guarantees enable businesses to work on more predictable schedules, reducing costs and improving innovation and competitiveness.” However, issues that negatively impact day-to-day business operations for the agriculture and agri-food sector were identified:

- Inconsistent information requirements and difficulty in determining completeness of Permit to Take Water (PTTW) applications.
- Turn-around times and completeness of Certificates of Approval (CofA) applications.
- Time and expense associated with appeals under the *Drainage Act* that some consider ‘frivolous and vexatious.’

Therefore, the sector requested that the government adopt a process to accelerate the finalization of drainage project permits, as well as Permits to Take Water and Certificates of Approval, to ensure these are processed within six weeks of a ministry’s receipt of a complete application. It was also recommended that the government develop a mechanism to identify and discard ‘frivolous and vexatious’ objections to a permit or approval.

Government Response

(Lead: Ministry of the Environment; Associated Ministries: Ministry of Agriculture, Food and Rural Affairs and Natural Resources)

In their response, the Ministry of the Environment noted that Agricultural Permits to Take Water (PTTW) account for 38% of all active permits. These PTTWs are for irrigation of crops for sale. It was also stated that in spring 2010, the ministry adopted a 90-day PTTW Application Service Standard. Through internal process improvements there has been a 47% reduction in the average time to process PTTW irrigation applications (from 92 calendar days in 2005 to 49 calendar days in 2011).

As part of their response to this priority, the Ministry of the Environment is committed to working with the agriculture and agri-food sector on turnaround times and efficiencies in processing applications for other types of water takings, including for food processing. Agri-food business operations typically receive water from municipal water supplies and account for very few PTTWs (27 Agri-food PTTWs as of March 2011). To support this effort, by May 31, 2011, the ministry will initiate work with the OFA and OMAFRA to develop guidance on how to complete PTTW applications. This will include providing

Agriculture, Food and Rural Affairs Appeal Tribunal

The tribunal is an impartial body to which citizens can file their appeals and applications on agricultural issues. It is part of a regulatory process where decisions made by other bodies can be appealed and where justice can be rendered after a proper hearing. For more information on the tribunal, please visit www.omafra.gov.on.ca/english/tribunal/index.

a sample application and identifying efficiencies for complete applications, as well as the review and clarification of renewal applications.

By October 31, 2011, the Ministry of the Environment will work with the OFA and OMAFRA to finalize guidance on complete PTTW Applications. And, by the end of December, 2011, the Ministry of the Environment will also collaborate with the OFA and OMAFRA to develop education and awareness products and outreach activities for the agriculture and agri-food sector and Ministry of the Environment staff on the PTTW program.

The Ministry of the Environment continues to work with industrial stakeholders to address their business needs in regards to Certificates of Approval. This has resulted in eliminating the backlog of applications, developing sample application forms for industrial sectors, updating guidance materials and improving business processes. An invitation was extended to the agriculture and agri-food sector to participate in this Modernization of Approvals initiative.

During the discussions concerning Priority 4, the OFA identified concerns that were of particular interest to the food processing industry represented by the Ontario Food Industry Environmental Coalition (OFIEC). These issues dealt with site-specific Certificate of Approval applications where industries adjacent to residential areas have difficulty complying with noise guidelines (e.g., open-window ventilation of heritage buildings) due to land-use compatibility issues.

The Ministry of the Environment is working with the agri-food sector, outside of the business sector strategy process, on these specific concerns. By July 15, 2011, the Ministry of Environment and the OFIEC will work together on potential outreach opportunities to provide clarity around the ministry's noise guidelines and recent updates to the Certificate of Approval program.

Education and outreach on Permits to Take Water and Certificates of Approval will reduce project delays, lessen business management risks and maintain engagement between the sector and government.

In addition, during the strategy development process, the sector raised specific concerns regarding the delay in addressing existing drainage permit approval process conflicts. It was decided by members of the working group that OMAFRA would lead this response, reflecting this ministry's responsibility for administration of the *Drainage Act*.

Beginning immediately, OMAFRA will continue discussions through informal contacts and ad-hoc working groups to address emerging barriers to agency approval of works under the *Drainage Act*.

In addition, OMAFRA advised that the *Drainage Act* and (*Conservation Authority Act* S.28) Regulations Team (DART), co-chaired by OMAFRA and the Ministry of Natural Resources and including representation from the OFA, conservation authorities and other stakeholders, had developed the *Drainage Act and Conservation Authorities Act Protocol*. This protocol is intended to streamline the permit process for the maintenance and repair of existing drainage projects under the *Conservation Authorities Act*. It outlines standard compliance requirements to be implemented and adhered to by conservation authority staff and drainage superintendents. This protocol is in its final draft form and will be presented by the ministries of Agriculture, Food and Rural Affairs, and Natural Resources to those organizations represented on DART, with a request for feedback.

Furthermore, OMAFRA noted that, under the leadership of Fisheries and Oceans Canada, OMAFRA, the Ministry of Natural Resources and the OFA are developing a guide to help streamline and expedite approvals for sector drainage work that falls under both the federal

Fisheries Act and the provincial *Drainage Act*. By mid May 2011, OMAFRA will inform the OFA of steps that Fisheries and Oceans Canada will take to expedite the finalization of the guidance document.

At the October 2011 meeting of the Land Drainage Engineers and the January 2012 annual meeting of the Drainage Superintendents' Association of Ontario, OMAFRA will promote the use of pre-project scoping meetings, where applicable, between landowners, municipalities and approving agencies to proactively clarify and address legislative requirements to help minimize incidents that delay the approval of drainage works.

In addressing the sector's request that the government develop a mechanism to identify and discard appeals to a permit or approval of a drainage project that are considered 'frivolous or vexatious' in nature, the OFA and OMAFRA recognized that lengthy appeals to the Agriculture, Food, Rural Affairs Appeal Tribunal negatively affect farm businesses. While appeals may be deemed by some to be 'frivolous and vexatious', it was agreed that appeals that fall into this category are small in number compared to the overall number of appeals that are made. However, to address the concerns of the sector, OMAFRA clarified the existing provisions to recover costs from these appeals.

The OFA also asked that improved communication products be developed by the tribunal regarding the potential to recover costs when these appeals occur. To this end, OMAFRA, respecting the independence of the tribunal, will advise the OFA on how a request for improved communication products produced by the tribunal may be put forward and addressed.

These efforts will provide greater certainty in the approval of drainage projects under the *Conservation Authorities Act* and *Drainage Act* and will ensure that the safeguards available to proponents for works under the *Drainage Act* against 'frivolous and vexatious' appeals are clarified.



Priority 5

Regulatory Compliance Incentives

The OFA noted that “it is widely held that the intent of government is to enforce regulatory compliance through inspection and penalty rather than utilizing alternatives to encourage good operating practices.” As a result, the sector recommended that OMAFRA review the compliance requirements of regulations to identify ways and means of encouraging or incenting regulatory compliance, helping to minimize the need for enforcement and penalties.

Government Response

(Lead: Ministry of Agriculture, Food and Rural Affairs; Associated Ministries: Environment, Labour, Natural Resources and Transportation)

In responding to the OFA’s final priority of the business sector strategy process, OMAFRA recognized the importance of facilitating compliance along with its enforcement practices, and is fully supportive of an approach to regulatory compliance that minimizes the need for enforcement activities and penalties. The ministry therefore agreed to include a discussion on changing behaviour through compliance incentives at the government-industry forum established under Priority 1.

Additionally, the ministry committed to consider possible compliance incentives to prompt behavioural change as part of the regulatory review agreed to in Priority 2.

Using the newly-designated information and referral source through the ministry’s call centre (Priority 3), information on stakeholder rights and obligations as well as compliance resources will be made available to stakeholders by the summer of 2011.

Finally, the Ministry of Economic Development and Trade – Open for Business, in collaboration with other regulatory ministries, will work on initiatives that will promote a risk-based and compliance-focused approach to inspection and enforcement that focuses on the desired outcome—a safe, healthy and fair Ontario.

The actions taken in response to the OFA’s Priority 5 will result in:

- Enhanced communication between the members of the agriculture and agri-food sector to air concerns and discuss alternatives to regulation, fostering sector ownership of issues and garnering compliance.
- Increased access to resources to assist with compliance.
- More timely and consistent resolution of non-compliance; a focus on higher risks and situations.
- Possible compliance incentives to prompt behavioural change.

Increasing the level of compliance across the province can reduce costs to business and strengthen public protection.



CONCLUSION

With a round of applause celebrating the work that had been completed, the final roundtable with the agriculture and agri-food sector drew to an end.

During the two-month consultative period, business leaders, senior bureaucratic and political staff worked to identify solutions to critical issues facing the agriculture and agri-food sector, specifically within the area of regulatory development, oversight and compliance. And now, working within the guidelines and processes established during the sector strategy initiative, government and industry are poised to move forward together to improve Ontario’s regulatory environment and, by doing so, help the agriculture and agri-food sector to grow.

At the final roundtable, Bette Jean Crews, President of the OFA, admitted initial skepticism when invited to participate in the business sector strategy process. However, upon seeing the “passion and commitment” on the part of government staff, she noted that “the Open for Business initiative demonstrates how positive change can take place quickly when industry and government work together with a common purpose.”



For more information, please visit:
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