



Ontario Federation of Agriculture

Ontario AgriCentre

100 Stone Road West, Suite 206, Guelph, Ontario N1G 5L3
Tel: (519) 821-8883 • Fax: (519) 821-8810 • www.ofa.on.ca

August 11, 2016

Mr. Mike Relf
Secretary to the Commission and Manager
Ontario Farm Products Marketing Commission
1 Stone Road West,
Guelph, ON
N1G 4Y2

Email: mike.relf@ontario.ca

Dear Mr. Relf,

Re: Regulatory Registry Posting #16-MAFRA004 (Proposed Amendment to Regulation 440)

The Ontario Federation of Agriculture (OFA) and our fellow signatories to this letter would like to provide input on the proposed amendments to Regulation 440.

From the posting's summary of proposal, we gather that these proposed amendments would remove the provisions establishing negotiating agencies, add provisions for establishing an industry advisory committee, and consider consequential amendments to the Ontario Processing Vegetable Growers' (OPVG) board's powers resulting from the proposed amendments.

It is the position of the OFA and all of the signatories to this letter that the Commission must unequivocally respect the first principles of the *Farm Products Marketing Act* (FPMA) and Regulations. In this regard, we believe the Commission should be informed by the February 16, 2010 Agriculture, Food and Rural Affairs Appeal Tribunal decision of *Minnema v. OFPMC2010ONAFRAAT05*:

In our view, the *Farm Products Marketing Act* (FPMA) and Regulations do have first principles that must be respected. In particular the relevant clauses relating to the purpose of local boards and the scope of powers are an expression by the Legislature of the Province that is not subject to review or change by a Commission or Tribunal, and decisions inconsistent with those purposes should not be supported. The way to change these purposes is by direct legislative amendment, not by indirect change to the regulations. In a similar vein, the regulations implement the purpose of the legislation, and should not be re-drafted or amended in such a way as to negate or limit that purpose.

<http://www.canlii.org/en/on/onafraat/doc/2010/2010onafraat5/2010onafraat5.pdf>

We believe that the proposed amendments to Regulation 440, if they were to proceed, would not respect the Legislative principles of the FPMA. Rather, they would effectively negate the legislation by removing the provisions establishing negotiating agencies, limiting the OPVG board's powers, and thus leaving no entity responsible for the control and regulation of processing vegetable marketing.

We believe that this proposal would take fundamental power and purpose away from the OPVG. Farmers should have a say about any changes to the marketing system of their regulated farm products. Therefore, we expect the Commission will further provide the OPVG an adequate amount of time to consult with its members past the August 12, 2016 date. The Commission's intended timeline to implement potential changes during the growing season and by the 2017 vegetables for processing crop year is unreasonable.

The regulatory posting stated that the Commission was considering a number of options to enable the processing sector to remain viable and grow by moving to a free market system. In considering those options, we suggest the Commission's assessment should be evidence based. In a market characterized by a single buyer or few buyers, a free market system is not necessarily a fair and equitable marketing system for farmers.

In closing, we also note that the limited information provided with this regulatory posting creates enormous uncertainty about the impact of proposed changes and leaves the reader unsure as to the rationale for the Commission's proposed regulation amendments.

Sincerely,

Don McCabe
OFA President

On behalf of OFA and the following signatories:

Clarence Nywening, President
Christian Farmers Federation of Ontario



Emery Huszka, President
National Farmers' Union (Ontario)



National
Farmers
Union EST. 1969
Ontario



Matthias Oppenlaender, Chair
Grape Growers of Ontario



Bernt Solymár, Executive Director
Asparagus Farmers of Ontario



Robert Scott, Chair
Ontario Sheep Marketing Agency



cc: Hon. Jeff Leal, Minister, Ontario Ministry of Agriculture and Rural Affairs
Dr. Deb Stark, Deputy Minister, Ontario Ministry of Agriculture and Rural Affairs
Geri Kamenz, Chair, Ontario Farm Products Marketing Commission