



April 4, 2013

David Daniels, Director - Ohio Department of Agriculture
Scott Nally, Director - Ohio Environmental Protection Agency
James Zehringer, Director - Ohio Department of Natural Resources

Dear Directors:

I'd like to begin by thanking you for the opportunity to provide comments on your proposed legislation related to the movement and application of agricultural nutrients in Ohio (LSC 130 0081-2). The Ohio AgriBusiness Association has participated from the beginning of this process and appreciates the open, transparent manner in which the discussions have taken place. OABA is a 130-year-old agribusiness trade association that represents Ohio's fertilizer industry, along with the grain, feed, seed and crop protection product industries. We are affiliated with, and supportive of, The Fertilizer Institute and the Agricultural Retailers Association at the national level, the International Plant Nutrition Institute at the international level, and we administer the Certified Crop Adviser program in Ohio.

OABA recognizes the 4R Nutrient Stewardship program (nutrientstewardship.com) as the foundation for all agricultural nutrient management practices. The 4R Nutrient Stewardship program provides a framework to achieve cropping system goals, such as increased production, increased farmer profitability, enhanced environmental protection and improved sustainability. To achieve those goals, the 4R concept incorporates the:

- **Right fertilizer source** at the
- **Right rate**, at the
- **Right time** and in the
- **Right place**.

Properly managed fertilizers support cropping systems that provide economic, social and environmental benefits. On the other hand, poorly managed nutrient applications can decrease profitability and increase nutrient losses, potentially degrading water and air.

OABA recognizes that there is a need to balance voluntary changes in production practices with government regulation aimed at not only ensuring clean water, but also instilling confidence in agricultural production practices for Ohio's citizens. But,

increased regulation should not unnecessarily damage Ohio's agricultural economy – the number one industry in the state that currently provides one in seven jobs for Ohioans – and the ability to grow a crop that must feed a growing world population.

In recognition of this balance and the necessity to take action in certain areas, we support several of the proposed changes in this legislative draft. **We are supportive of the following:**

Fertilizer Reporting

While we recognize the additional burden this could place on some of our member companies, overall we believe the increased accountability on fertilizer distribution will offset any potential time required to break down reports to a more localized area. It is important that final rules are crystal clear as to the specific reporting requirements. Businesses need a clear set of rules under which to operate.

Fertilizer Licensing

OABA believes that a fertilizer applicator license could raise the professionalism of all applicators in the eyes of Ohioans, while ensuring the 4R principles are being implemented. While the “devil is in the details,” we support this concept. We encourage the Ohio Department of Agriculture to consider the requirements of a Certified Crop Adviser and other professional agricultural certifications when they promulgate the licensing rules so they are consistent across the board.

Critical Natural Resource Area

The idea of creating a watershed designation that could be used as a warning prior to the “distressed watershed” designation is very appealing. OABA supports the idea of a Critical Natural Resource area where agricultural operations have the opportunity to adopt voluntary practices – including the development of a nutrient management plan, prior to being “forced” to adopt certain practices due to a “distressed” designation. We believe any designation, whether it is a Critical Natural Resource Area or a Watershed in Distress, must be based on sound science.

While we are supportive of many elements of the draft legislation, we do have some serious concerns with other areas. **These concerns include:**

Fertilizer Designation

While we understand the rationale behind the proposed designation of fertilizer as a substance that could degrade waters of the state, we are uncomfortable with the ramifications of this designation to production agriculture. Fertilizer, when used properly, is a necessary and critical resource to a growing plant. Current and future agricultural production levels could not be sustained with non-justified reductions in fertilizer application levels.

Nutrient Management Plan Development and Approval

Many agricultural retailers are already working closely with their grower customers at a detailed level, which would provide most or all of the data necessary

to create a nutrient management plan. These agronomic services are often delivered via a Certified Crop Adviser who is highly qualified and capable of creating an NMP. Our concern is that the Soil and Water Conservation Districts do not have the resources to approve all the NMPs in a timely manner in the case of a distressed watershed designation. We question whether or not even voluntary NMPs in a Critical Natural Resource Area could be approved in a timely manner with the current number of "boots on the ground."

Affirmative Defense

We recommend in sec. 1511.021 that a nutrient management plan provide a complete defense in place of the current affirmative defense in the case of a private civil action.

Unintended Consequences

Finally, it is important we state that although we have confidence in our current agency directors, we have significant concerns with how future administrations may wield this new power. Future directors, without proper discretion, could effectively shut down agricultural production in a certain watershed. We can hardly afford to jeopardize our \$107 billion agriculture industry in Ohio. As we know, fertilizer is a vital and necessary tool to increase food production over the next 40+ years to feed a world population that is growing from its current population of 7 billion to more than 9 billion people.

OABA appreciates the opportunity to provide comments on the draft legislation, and we will continue to be engaged through the legislative and rule-making process. I thank you for the time and energy you and your staff have put into this process. Please don't hesitate to contact me if you have questions or seek additional input.

Sincerely,



Christopher Henney
Ohio AgriBusiness Association
President/CEO

Copy: OABA Board
OABA Public Policy Committee