



# POLICY PAPER

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## “The Voice of Manitoba Farmers”

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## **Right to Farm**

**Adopted at General Council on April 13, 2006**

### BACKGROUND & INTRODUCTION

The mandate of Keystone Agricultural Producers’ Right to Farm Ad Hoc Committee was to develop a discussion document, to present to General Council and Minister Wowchuk (MAFRI), outlining the gaps within our own provincial Farm Practices Protection Act (FPPA) and how those gaps may be addressed to make the FPPA stronger and more workable for the industry. The committee was struck as a result of discussions with Minister Wowchuk on what our organization envisioned right to farm legislation to consist of for Manitoba.

### PROCESS

During the process the committee met with representatives from the Farm Practices Protection Act, Manitoba Conservation, Mineral Resources Division, Manitoba Agriculture, Food & Rural Initiatives and Snoman. The committee reviewed several other provincial regulations to see where the gaps were with the Farm Practices Protection Act. Throughout the process, we found gaps in other pieces of legislation (detailed in related issues), such as the Trespassers Act, but some of these gaps would have to be addressed in the respective act as opposed to an all-encompassing FPPA. The most substantial gap in the FPPA, in comparison to some other provinces, is the inability for farm operations to protect themselves from municipal bylaws that may restrict farm practices.

### RECOMMENDATIONS

The following is recommended by the committee to make the Manitoba Farm Practices Protection Act stronger:

- Δ Farm operations need the ability to protect themselves from municipal bylaws that may restrict farm practices (examples include restrictive pesticide use, hours of operation and production of genetically modified crops);
- Δ Prior to third reading of municipal bylaws dealing with restrictions on agriculture, the bylaw must go to the FPPB for review and the board can

recommend changes to ensure that the bylaws are less restrictive and allow for current and emerging agronomic techniques and practices;

- Δ Currently, there is a \$50 application fee which is refundable if the board upholds the complaint. The committee recommends that this fee be increased to \$500 and be refundable as is currently the practice;
- Δ The board should be expanded to include adequate farmer representation appointed by a recognized provincial general farm organization;
- Δ The definition of “normal farming practice” should be expanded to include energy production and other new initiatives. The committee recommended that it include “the processing by a farmer of the products produced primarily from the farmer’s agricultural production”; and
- Δ Consideration should be given to recovery of costs, if the complaint is proven groundless.

#### RELATED ISSUES

There are other areas that the committee recommends for consideration given the fact that there are increasing public concern over the introduction of Foreign Animal Diseases and threats of bio-terrorism. As well, with emerging industries, there is a change in the Manitoba landscape and our legislation must be amended to reflect such.

- Δ The Trespassing Act should be strengthened to cover the public use of ATVs and other off-road vehicles on private land and the subsequent damage and potential bio-security hazards that such use may cause. Another option is for the province to pass legislation dealing specifically with ATVs, which is the case in Saskatchewan.
- Δ The Trespassing Act needs to be strengthened to eliminate landowners liability, when the landowner is practicing normal farm practices, from those who enter private land without permission. The defense of “belief of the right to be there” should not be considered valid.
- Δ The fine for willful trespassing needs to be increased to serve as more of a deterrent in view of the increasing risk of farm biosecurity.
- Δ The Surface Rights Act needs to take into account the growing wind energy industry in Manitoba.
- Δ The Surface Rights Act should be revised to take into account advances in directional drilling technology and extraction methods to reduce surface rights inconvenience to landowners.