

COMMITTEE OF THE WHOLE DECEMBER 8, 2003

NUTRIENT MANAGEMENT ACT & REGULATIONS PLANNING FILE 22.18

Recommendation

The Commissioner of Planning recommends:

1. THAT this report be received for information purposes.
2. THAT the Province be requested to provide municipal staff with the assistance necessary to implement the requirements of the New Nutrient Management Act and Regulations.

Purpose

The purpose of this report is to provide information on the recently approved *Nutrient Management Act* and Regulation 267/03, updated from the October 22, 2001 staff report on the proposed Act.

Background - Analysis and Options

In June of 2002, the *Nutrient Management Act* received Royal Assent, and the implementing Regulation 267/03 was filed under the Regulation Act on July 1, 2003, and came into effect on September 30, 2003.

The Nutrient Management Act is the Province's approach to establishing regulation that addresses environmental health in the agricultural industry. The legislation was requested by farmers looking for clear and consistent rules, municipalities concerned with their authority to adopt and enforce nutrient management by-laws, and the public's concern for a cleaner environment. It provides a framework for the Provincial involvement in the approval and regulation of livestock production in Ontario.

As of September 30, 2003, all new livestock operations larger than 5 nutrient units will be subject to the regulation. In addition, certain categories of farms will be required to have Provincial approval of their nutrient management plans/strategies. Municipal by-laws may continue to apply to existing farms of less than 300 nutrient units, unless otherwise restricted by the regulation.

A nutrient unit is the amount of manure that gives the fertilizer replacement value of the lower of 43 kg (95 lbs.) of nitrogen or 55 kg (121 lbs.) of phosphate. The Province has provided information to determine the number of NU which could be generated by animal type. The total number of NU will determine whether a livestock operation is regulated.

In 2005, all existing operations equal to or larger than 300 nutrient units will be subject to the regulation. This initiative will regulate a sector that municipalities don't generally address with their Nutrient Management By-laws. In 2008, other types of agricultural operations may become subject to the regulation, subject to available funding to assist farmers.

The regulations have the potential to require the municipality to undertake a nutrient management strategy once the regulations are phased in (either 2005 or 2008), for the land application of the sediment of Stormwater Management ponds, if the sediment is being applied for the benefit of an agricultural operation. In the interim, the regulation only impacts new or expanding operations meeting the above noted requirements.

The Nutrient Management Act includes a provision under Section 61, which stipulates that municipal by-law provisions are inoperative if they deal with the same subject matter as a regulation. The Nutrient Management regulation deals with a wide range of subject matter.

Municipal by-laws (where in existence) will continue to have the same legal effect as in the past, except where a specific provision is superseded by the regulation.

The trigger for the requirement of a Nutrient Management Plan or Strategy is a building permit for a structure or building that is used to house farm animals. Should such a building permit application be received, it is the municipality's responsibility to determine the applicability of the regulation by determining the approximate number of nutrient units potentially produced by housing farm animals within a certain sized structure. The regulation requires that all new livestock operations generating greater than 5 nutrient units, and expanding farms generating 300 nutrient units or greater, have a Nutrient Management Plan or strategy as of September 30, 2003.

The *Nutrient Management Protocol* provides technical and scientific details and standards that are complementary and in addition to those set out in the Regulation. Using this Protocol will be useful in developing and implementing nutrient management strategies and plans that comply with regulatory requirements.

Municipalities may want to establish a local advisory committee and are encouraged to do so at the county or region level. These committees, with membership drawn from municipalities, farmers and the broader community, can help provide information and education to the public and municipal staff, and can mediate issues that are not dealt with in the legislation. In addition, these committees could be a valuable source of feedback to the provincial government and the Provincial Advisory Committee.

Conclusion

The *Nutrient Management Act* and Regulations are intended to regulate the amount and placement of land-applied nutrients in the agricultural industry to address environmental concerns.

The municipality is required to ensure that the *Nutrient Management Act* and Regulations are implemented, where applicable. The Building Standards Department, in reviewing building permit applications for buildings or structures to house farm animals, is required to determine if the regulation applies to the subject application. As the legislation and regulation is intended to deal with larger livestock operations in more rural municipalities, the implications of this legislation and regulation on the City is likely negligible. In the full roll-out of the regulation (2005-2008), there may be requirements for the municipality to prepare nutrient management strategies for the land application of sludge from stormwater management ponds.

Attachments

N/A

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Respectfully submitted,

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