Nutrient Management Act
- What is it all about?

33rd Drainage Engineers Conference
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Nutrient Management Act

Next step in Operation Clean Water

Goals of Act - “preventative legislation”
- set out a comprehensive and integrated approach to all land-applied materials containing nutrients
- ensure all land applied materials containing nutrients are managed in a sustainable, beneficial manner which results in environmental protection

Builds on current best management practices and approval requirements

Introduced June 13, 2001 by OMAFRA
- posted on Environmental Registry for 60 day public comment period until August 14
- held information sessions over summer

Justice & Social Policy Standing Committee - Hearings - held September 5 to 21 around province
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Act - Highlights

Will set minimum standards in regulation for the management of all materials containing nutrients that are land applied
province to set the standards
province to enforce the standards
Nutrient Management Plan (NMP) - cornerstone
mandatory for each site where nutrients are applied
requirements may be different for different categories
Nutrient Management Strategy (NMS) - required for each generator to identify volumes generated and application sites
Certificate of operation - combines NMP and NMS and is required by large agricultural operators
Certification of people handling/applying the materials containing nutrients
Current EPA approval requirements remain in place

How a Bill becomes Law

A Bill must pass 3 readings to become law
1st reading - Introduction in legislature
2nd reading - Approval-in-principle
3rd reading - Final approval
Royal assent & proclamation by Lieutenant-Governor to come into force
Regulations implementing standards cannot be passed until after proclamation
Regulations on standards must also be approved by Cabinet
What's in the legislation?

- Part I: Definitions, administration
- Part II: Authority to make regulations on nutrient management & farm animals
- Part III: Appeals to Environmental Review Tribunal
- Part IV: Inspection & investigation
- Part V: Remedial work, prevention
- Part VI: Enforcement
- Part VII: General
- Part VIII: Amendments to other Acts
- Part IX: Proclamation & short title

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Part I: Definitions, administration
- Agricultural operation, farm animal definitions
- Natural environment, discharge, nutrient
- Nutrient includes manure, compost, biosolids, pulp & paper sludge, septage, commercial fertilizers
- Nutrient management plan (NMP) for nutrients applied to land
- Nutrient management strategy prepared by municipalities, industrial generators & some farms
- Director, provincial officer
- Approval, certificate, licence
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Part II: Regulation Making Authority
- Collection, storage, handling, transportation & application
- Minimum quality standards
- Construction requirements for farm buildings
- Record-keeping, training & certification
- Nutrient management plan requirements
- Nutrient management strategy requirements
- Minimum distance separation requirements
- Establishing a registry of information
- Governing the use of innovative technologies
- Restricting the access of animals to waterbodies
- On-farm management of dead animals
- Establishing local committees & defining responsibilities relative to mediating disputes (not enforcement)

Part III: Appeals
- Decisions related to certificates, licenses, approvals can be appealed
  Appeal to Environmental Review Tribunal
  Appeal matters of law related to tribunal decisions to Divisional Court
- Sets out appeal process, notice requirements
- Sets out rights & responsibilities of parties

Part IV: Inspections & Orders
- Provides property entry & inspection powers
  Securing property & things; seizure during inspection if needed
  Compliance orders by officer, orders can be reviewed by Director
- Can appeal orders to tribunal
- Definition of adverse effect
- Prevention orders to prevent adverse effect
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Part V: Remedial Work

Authority for province to take corrective action if order is not being complied with or assistance required
Notice requirements
Warrants for entry to carry out work
Recovery of costs for remedial work including through liens

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Part VI: Enforcement

Two types of penalties:
Administrative penalties imposed by government official
Administrative penalties up to $10,000 per day can be imposed by a Director (civil servant)
A type of penalty that aims to achieve compliance, not prosecute
Penalties imposed by the courts
Penalties for individuals up to $5,000 per day 1st conviction, $10,000 additional conviction
Penalties for corporations up to $10,000 per day 1st conviction, $25,000 additional conviction
Imposed by courts after trial & conviction

Offences are defined to include
contravention of Act or Regulations,
failure to comply with certificate, licence, approval or order
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Part VII: General
- Application of EPA and OWRA not affected by, & take precedence over Nutrient Management Act
- Offences under EPA & OWRA unaffected by new Act (e.g. spills)
- Authority to delegate powers to individual, partnership or corporation except enforcement (allows alternate delivery)
- Authority to set fees
- Ability to set classes of activities, matters, persons or things (e.g. categories of agricultural operations)
- Authority for regulation to supersede a municipal by-law which addresses the same subject matter

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Part VIII: Amend Other Acts
- Clarify that Nutrient Management Act applies to animal wastes (manure) not regulated under Environmental Protection Act (EPA)
- Ensure farm practices under Farming & Food Production Protection Act (FFPPA) must be consistent with Nutrient Management Act
- Ensure provincial officers can enforce Nutrient Management Act, EPA, OWRA & Pesticides Act
Possible Standards

Nutrient Management Plan
mandatory requirement, to be phased in by categories
apply to site where material applied

Construction & On Farm Improvements
Construction requirements for new or expanding livestock facilities
  Setbacks from sensitive features
  Size of required manure storage
  Restricting livestock access to watercourses

Land Application
Require certification of commercial land applicators of materials containing nutrients
Standards for application timing, i.e. not on frozen or saturated ground
Setbacks from sensitive features
  Banning application of untreated septage over 5 years

Proposed Implementation Strategy: Categories of Operations

Categories of agricultural operations could include:
  > 450 livestock units
  150-450 livestock units
  Other livestock operations
  Other types of agricultural operations
  Municipal sewage treatment plants generating biosolids
  Other industry generators of land-applied materials
  Municipal & Industrial Approvals continue under EPA (e.g. for biosolids, septage, sludge)
Proposed Implementation Strategy: Agriculture Approvals & Reviews

Livestock operations > 450 LU:
- Provincial approval of NMP & other requirements
- Alternate service delivery for approval within 3 years
- Apply to all new operations after passage of regulations
- Apply to existing operations within 3 years

Livestock operations 150-450 LU:
- Provincial review for new & expanding operations
- Alternate service delivery for review within 3 years
- Apply to all new operations after passage of regulations
- Apply to existing operations within 3-5 years

Other agricultural operations
- NMPs required on-site
- Apply within 5 years

Proposed Implementation Strategy:

Training & Certification
- Education, training & certification - strategy for implementation
- Commercial applicators & haulers could require training, testing
- Farmers applying to own land - requirements vary with category
- NMP preparers & approvers could require training & certification

Compliance & Enforcement
- Provincial officers - specially trained in agricultural practices
- Livestock operations > 450 LU - defined inspection schedule
- Other agricultural operations - Regular audit of a percentage of operations
- Local municipal advisory committees - Raise awareness & mediate non-enforcement issues
Summary of Key Dates

First reading - June 13, 2001
60-day Environmental Bill of Rights registry posting ended Aug 14th - 22 submissions
Justice & Social Policy Committee hearings
   September 5-21
   9 days: Toronto, Caledonia, St. Thomas, Chatham, Clinton,
   Owen Sound, Kemptville, Peterborough, North Bay
   182 submissions
Premier indicated "... this fall, we hope to pass the Nutrient Management Act..."

Submissions by Stakeholders

- Conservation authorities: 5%
- Private companies: 8%
- Municipalities: 17%
- Individuals: 21%
- Environmental groups: 12%
- Farm groups: 37%
**Issues Raised**

Concern about transition from current by-laws
Standards superceding local by-laws
  - Most farm & many municipalities support
  - Most environmental groups & some municipalities oppose
Concerns about biosecurity & preventing spread of contagious disease during inspections (most farm groups)
Need for extensive consultation on standards (all groups)
Support for use of NMPs (most groups)
Concern about the confidentiality of NMPs (farm groups)
Apply Act to all nutrient users (farm groups)
Involvement in NMP approval, public notice & 3rd party appeal (environmental groups & some municipalities)

**Issues Raised**

Some appeal time periods too short
Many suggest need for clarity around purpose
Geophysical studies definition
Support for provincial enforcement (most groups)
Opposition to alternate service delivery (most groups)
No Minister identified in the Bill (many groups)
Many concerned about economic impact on farms
Municipalities concerns about sewage plant capacities
Many suggest provincial financial assistance
Issues Raised

Research needed on many standards
Many indicate education, extension needed
Concern about resources needed for implementation
Concern that other contributing sectors not being addressed
Technological solutions needed
Support for phasing of implementation
Support for local advisory committees

Next steps

Clause by clause review by Standing Committee
Recommendations for amendments to Cabinet
2nd & 3rd Reading
Royal Assent
Proclamation
Develop & consult on draft standards
Approval of regulations
Implementation
Drainage Engineer's Reports

Things to consider:
- drains should be geo-referenced
- closed drains may be required to have inspection ports
- number of field tiles outletting may be restricted
- shut-offs and pump-outs may be required on main tile drain outlets
- drainage systems may be required to better manage sediment
  - filtering basins; buffer strips; tree plantings
  - adequate livestock crossings provided
- appropriate fencing of open drains
- all surface inlets will be treated the same as an open waterway

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