



Title 130 - Livestock Waste Control Regulations

Proposed Amendments

Nebraska Department of
Environmental Quality

NOTE: By clicking on the small dialogue icon in the upper left corner of each slide, you will be able to view the speaker's notes.



Purpose for Amendments

- **Incorporate requirements of December 2008 EPA CAFO Rule**
- **LB 56 – 2009 Nebraska Legislature**
- **Clarification**
- **Housekeeping**



Focus on Nutrient Management

Chapter 14

- 001 – combines the production area plan and nutrient management plan into one document – nutrient management plan that includes:
 - 001.09 – protocol using either narrative rate approach or linear approach for land application
 - 001.13 – site-specific conservation practices

Chapter 14 - continued

- 002 – permit ‘terms’ require implementation of nutrient management plan. Nine elements:
 - 002.01 – storage capacity for all wastes & operation & maintenance procedures
 - 002.02 – mortality management
 - 002.03 – clean water diversion



Chapter 14 - continued

- 002.04 – prevent animal contact with waters of the State
- 002.05 – chemical management
- 002.06 – site-specific conservation practices
- 002.07 – protocols for testing manure, litter, process wastewater, and soil



Chapter 14 - continued

- 002.08 – protocols for land application following nutrient management plan that ensures appropriate nutrient utilization using the narrative rate approach or linear approach
- 002.09 – identify records to document the minimum elements

Chapter 14 - continued

- **003** – permit terms include protocols for land application – fields available & field specific rates of application
 - **003.01** – Linear approach – pounds of N & P applied
 - **003.02** – Narrative rate approach – methodology to determine amount of wastes to be applied

Chapter 14 - continued

- **003.01A** – permit terms using linear approach
 - **003.01A1** – form and source of wastes
 - **003.01A2** – timing and method of application
 - **003.01A3** – details of the nutrient management plan that describes the method to determine the amount of N & P to apply

Chapter 14 - continued

- 003.01A4 – maximum waste application rates for each year for each crop in nutrient management plan in pounds / acre. Factors to determine rate:
 - Assessment of N & P transport from field
 - Crops to be planted
 - Realistic yield goal
 - N & P recommendations
 - Field credits for N
 - Multi-year P application
 - All other additions of N & P



Chapter 14 - continued

- 003.01A5 – for large CAFOs, maximum amount of waste to be applied, calculated at least once each year using N & P results within past 12 months

Chapter 14 - continued

- 003.02 – permit terms for narrative rate approach
 - 003.02A – maximum amount of N & P from all sources for each crop in nutrient management plan in pounds / acre. Factors to determine amount:
 - Assessment of N & P transport from field
 - Crops to be planted
 - Realistic yield goal
 - N & P recommendations

Chapter 14 - continued

- 003.02B – how the nutrient management plan accounts for the following in determining the amount of waste to apply:
 - Soil test results
 - N field credits
 - Amount of N & P in wastes
 - Multi-year P application
 - All other additions of N & P
 - Form and source of wastes
 - Timing and method of land application
 - Volatilization of N, mineralization of organic N



Chapter 14 - continued

- 003.02C – identify alternative crops in nutrient management plan by field & include:
 - Realistic crop yield goals
 - N & P recommendations
 - Maximum N & P from all sources
 - Amount of wastes to apply determined by narrative rate approach

Chapter 14 - continued

- 004 – narrative rate approach – not permit terms
 - 004.01 – projections in nutrient management plan
 - Planned crop rotation for each field
 - Amount of waste to be applied
 - N field credits that are plant available
 - Multi-year P application
 - All other N & P plant available
 - Form, source, & method of application
 - Timing of application



Chapter 14 - continued

- 004.02 – annually calculate maximum amount of wastes to be land applied using narrative rate approach & following data:
 - Soil N & P
 - N available
 - P analysis method
 - Waste N & P taken within past 12 months

Chapter 14 - continued

- **005** – modification of nutrient management plan
 - Provide DEQ with most current version
 - Identify changes
 - DEQ determines if terms revision necessary
 - Not substantial
 - Substantial



Modification to NMP

- **Substantial changes**
 - Addition of new land application areas
 - Changes to the field-specific maximum annual rates (linear approach)
 - Changes to maximum amounts of N & P from all sources (narrative rate approach)
 - Addition of crop or other uses
 - Changes to site-specific components of NMP

Public Participation

- **Title 119 – NPDES rules and regulations**
 - New and reissued permits (Ind. NPDES and C&O Permits) public noticed in paper & DEQ web page
 - 30 days for comment & request hearing (NPDES)
 - Nutrient management plans (General NPDES), requests for coverage under a general permit and subsequent substantive and non-substantive modifications will be electronic noticed electronically (7-10 days?)

Where are we at?

- Passed by the Environmental Quality Council in December 2010.
- Have been reviewed and approved by the Attorney General

HOWEVER.....

5th Circuit Court Decision

- EPA exceeded authority under Clean Water Act to require CAFOs to obtain a permit if they “propose” to discharge
 - NDEQ pulled Chapter 5 (NPDES chapter) to remove “intends to discharge”
 - Will go to Environmental Quality Council in June to amend Chapter 5 (remove “intends to discharge”)
 - Other regulation changes have been passed on to the Governor for review and will proceed at the Governor’s discretion. Effective 5 days after signing.

NDEQ Notes

- **Current General Open Lot NPDES Permit in effect until 2013.**
 - **No need to update NMP unless a major modification occurs**
- **Renewal of Individual NPDES permits and new/modified Construction and Operating Permits will require new format NMP**
- **Develop C&O permit and Ind. NPDES permit formats**
- **Develop guidance documents**
- **Hold information sessions**



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