

# Title 130 - Livestock Waste Control Regulations

## Proposed Amendments

Nebraska Department of  
Environmental Quality

# 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.....**

# 5<sup>th</sup> 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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