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An Agricultural Law Research Project

Nutrient Management Plans Statutes & Regulations

Nebraska

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Nutrient Management Plans

STATE OF NEBRASKA

1) R.R.S. Neb. §§ 54-2416—54-2438, 81-1504 (10)–(13), (20), (21), 81-1505 (10); Neb. Admin. Code Title 130, Ch. 14

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Nebraska Legislative Council.

1) R.R.S. Neb. §§ 54-2416—54-2438, 81-1504 (10)–(13), (20), (21), 81-1505 (10); Neb. Admin. Code Title 130, Ch. 14

§ 54-2416. Act, how cited.

Sections 54-2416 to 54-2438 shall be known and may be cited as the Livestock Waste Management Act.

§ 54-2417. Terms, defined.

For purposes of the Livestock Waste Management Act:

(1) Animal feeding operation means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in section 2-3804.01;

(2) Best management practices means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the state and control odor where appropriate. Best management practices also includes operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage;

(3) Construct means the initiation of physical onsite activities;

(4) Construction and operating permit means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation;

(5) Construction approval means an approval issued prior to December 1, 2006, by the department allowing construction of a livestock waste control facility;

(6) Council means the Environmental Quality Council;

(7) Department means the Department of Environmental Quality;

(8) Discharge means the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the state or in a place which will likely reach waters of the state;

(9) Existing livestock waste control facility means a livestock waste control facility in existence prior to April 15, 1998, that does not hold a permit and which has requested an inspection prior to January 1, 2000;

(10) Livestock waste control facility means any structure or combination of structures utilized to control livestock waste at an animal feeding operation until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock waste;

(11) Major modification means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility;

(12) National Pollutant Discharge Elimination System permit means either a general permit or an individual permit issued by the department pursuant to subsection (11) of section 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of Environmental Quality, are more appropriately controlled under a general permit than under an individual permit;

(13) New animal feeding operation means an animal feeding operation constructed after July 16, 2004;

(14) New livestock waste control facility means any livestock waste control facility for which a construction permit, an operating permit, a National Pollutant Discharge Elimination System permit, a construction approval, or a construction and operating permit, or an application therefor, is submitted on or after April 15, 1998;

(15) Operating permit means a permit issued prior to December 1, 2006, by the department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the department;

(16) Person has the same meaning as in section 81-1502; and

(17) Waters of the state has the same meaning as in section 81-1502.

§ 54-2418. Department; duties.

The department shall (1) administer the animal feeding operation permitting program in accordance with the National Pollutant Discharge Elimination System of the federal Clean Water Act, 33 U.S.C. 1251 et seq., through the Environmental Protection Act, the Livestock Waste Management Act, and the rules and regulations adopted and promulgated pursuant to such acts and (2) administer the state program for construction and operating permits and major modification approval for animal feeding operations and livestock waste control facilities provided under the Environmental Protection Act, the Livestock Waste Management Act, and the rules and regulations adopted and promulgated pursuant to such acts.

§ 54-2419. Permits; approval; conditions; restrictions.

(1) No new animal feeding operation shall be issued a National Pollutant Discharge Elimination System permit or a construction and operating permit in any part of a watershed that feeds directly or indirectly into a cold water class A stream, delineated pursuant to section 54-2421.

(2) An existing animal feeding operation may not expand if its livestock waste control facility is located within one mile of a designated cold water class A stream segment delineated pursuant to section 54-2421 and the same cold water class A stream watershed as the animal feeding operation, except that an existing animal feeding operation used for research sponsored by the University of Nebraska at a facility owned by the University of Nebraska may expand if the department determines based on scientific information provided in the application or other available scientific information that the proposed expansion does not pose a potential threat to the stream.

(3) Existing animal feeding operations may receive a new or modified National Pollutant Discharge Elimination System permit, a new or modified construction and operating permit, a modified operating permit, or a modified construction approval if:

(a) The existing animal feeding operation does not currently have a National Pollutant Discharge Elimination System permit or a construction and operating permit and upon inspection by the department a determination is made that one is necessary;

(b) The existing animal feeding operation modifies its operation but does not expand its approved livestock waste control facility;

(c) The existing animal feeding operation's livestock waste control facility is located more than two miles from a designated cold water class A stream segment delineated pursuant to section 54-2421 and in the same cold water class A stream watershed as the animal feeding operation; or

(d) The existing animal feeding operation or livestock waste control facility is located less than two miles but more than one mile from a cold water class A stream delineated pursuant to section 54-2421, and the department determines based on scientific information provided in the application or other available scientific information that the proposed expansion does not pose a potential threat to the stream.

(4) The department may deny or restrict an application for a transfer or major modification of an existing National Pollutant Discharge Elimination System permit or a construction and operating permit based upon the potential degradation of a cold water class A stream.

§ 54-2420. Section; how construed.

Nothing in section 54-2419 shall be construed to change the zoning authority of a county that existed prior to May 25, 1999.

§ 54-2421. Cold water class A streams; designation.

A map delineating segments and watershed boundaries for cold water class A streams, as designated prior to May 25, 1999, and prepared by the Department of Environmental Quality and the Department of Natural Resources, shall be maintained by the Department of Environmental Quality and used by the department for determinations made concerning cold water class A streams and stream watersheds under the Livestock Waste Management Act unless changed by the council. Beginning on May 25, 1999, the council may designate and may redesignate previously designated waters of this state as cold water class A streams for purposes of the act based on the determination by the council that the waters provide or could provide habitat of sufficient water volume or flow, water quality, substrate composition, and water temperature capable of maintaining year-round populations of cold water biota, including reproduction of a salmonoid (trout) population. The council shall not designate or redesignate a stream as a cold water class A stream unless the stream has supported the reproduction of a salmonoid (trout) population within

the previous five years. The department shall revise and maintain the cold water class A stream and stream watershed map to incorporate all designations and redesignations of the council.

§ 54-2422. Inspection and construction and operating permit requirements; exemptions.

Animal feeding operations with animal capacity that is less than three hundred cattle, two hundred mature dairy cattle, seven hundred fifty swine weighing fifty-five pounds or more per head, three thousand swine weighing less than fifty-five pounds per head, one thousand five hundred ducks with liquid manure handling system, ten thousand ducks without liquid manure handling system, nine thousand chickens with liquid manure handling system, thirty-seven thousand five hundred chickens without liquid manure handling system, twenty-five thousand laying hens without liquid manure handling system, sixteen thousand five hundred turkeys, three thousand sheep, or one hundred fifty horses are exempt from the inspection and construction and operating permit requirements of the Environmental Protection Act, the Livestock Waste Management Act, and the rules and regulations adopted and promulgated by the council pursuant to such acts, unless the animal feeding operation has intentionally or negligently discharged pollutants to waters of the state or the department has determined that a discharge is more likely than not to occur.

§ 54-2423. Animal feeding operation; request inspection; when; fees; department; duties.

(1) If any person owning or operating an animal feeding operation (a) does not hold a National Pollutant Discharge Elimination System permit, an operating permit, or a construction and operating permit or have construction approval, (b) has not been notified by the department that no National Pollutant Discharge Elimination System permit or construction and operating permit is required, or (c) is not exempt under section 54-2422, such person shall, on forms prescribed by the department, request the department to inspect such person's animal feeding operation to determine if a livestock waste control facility is required. If an inspection is requested prior to January 1, 1999, an inspection fee for such inspection shall not be assessed. For inspections requested on or after July 16, 2004, there shall be an inspection fee established by the council with a minimum fee of one hundred dollars and a maximum fee of five hundred dollars. Such fee may be set according to animal capacity.

(2) The department shall, in conjunction with natural resources districts and the Cooperative Extension Service of the University of Nebraska, publicize information to make owners and operators of affected animal feeding operations aware of the need to request an inspection.

(3) Any person required to request an inspection under this section who operates an animal feeding operation after January 1, 2000, without first submitting the request for inspection required under this section shall be assessed, except for good cause shown, a late fee of not less than fifty dollars nor more than five hundred dollars for each offense.

Each month a violation continues shall constitute a separate offense. Exceptions to this provision are:

(a) An animal feeding operation exempted by the department from National Pollutant Discharge Elimination System permit requirements prior to July 16, 2004; or

(b) A livestock operation that became an animal feeding operation by enactment of the Livestock Waste Management Act as such act existed on July 16, 2004, but was not required to request an inspection prior to that date.

(4) A person meeting the provisions of subdivision (3)(b) of this section shall request an inspection prior to January 1, 2009, and pay fees required pursuant to subsection (1) of this section.

(5) Any person required to request an inspection under subsection (4) of this section who operates an animal feeding operation after December 31, 2008, shall be assessed, except for good cause shown, a late fee of not less than fifty dollars nor more than five hundred dollars for each offense. Each month a violation continues shall constitute a separate offense.

§ 54-2424. Animal feeding operation; operating requirements; when.

Any animal feeding operation which was in existence on January 1, 2004, and does not have any permit on March 17, 2006, shall be subject, in addition to any other requirements of the Environmental Protection Act, Livestock Waste Management Act, and rules and regulations adopted and promulgated pursuant to such acts, to the same or substantially similar operating requirements as the requirements that existed on January 1, 2004.

§ 54-2425. National Pollutant Discharge Elimination System permit; department; duties.

(1) After an initial inspection has been conducted pursuant to section 54-2423 for each new application for a construction and operating permit or major modification submitted to the department, the department shall, within ten days, make a determination as to whether a National Pollutant Discharge Elimination System permit is required for the proposed animal feeding operation. If an application has been submitted prior to an initial inspection being conducted pursuant to section 54-2423, such application shall be returned to the applicant without the department conducting any review of the application.

(2) If it is determined that a National Pollutant Discharge Elimination System permit is required, the department shall contact the applicant to determine whether the applicant requests the department to delay review of the construction and operating permit or major modification application until an individual National Pollutant Discharge Elimination System permit application is submitted.

(3) If the applicant requests the department to delay review of the construction and operating permit or major modification application, upon receipt of the individual National Pollutant Discharge Elimination System permit application and the construction and operating permit or major modification application, the applications shall be reviewed simultaneously utilizing the processes and timelines for review of an individual National Pollutant Discharge Elimination System permit application.

(4) If (a) the department determines a National Pollutant Discharge Elimination System permit is not required or (b) if the applicant requests the department to proceed with review of the construction and operating permit or major modification application independent of a National Pollutant Discharge Elimination System permit application, the department shall, for both subdivisions (4)(a) and (4)(b) of this section:

(i) Within five days send a copy of the application to the natural resources district or districts and the county board or boards of the counties in which the livestock waste control facility is located or proposed to be located. The natural resources district or districts and the county board or boards shall have thirty days to comment to the department regarding any conditions that may exist at the proposed site which the department should consider regarding the content of the application for a construction and operating permit or major modification;

(ii) Within sixty days, (A) issue a proposed decision on the application for a construction and operating permit or major modification and (B) issue a notice providing an opportunity for any interested person to submit written comments on such proposed decision within thirty days after the first day of publication of such notice. The notice shall be published in a daily or weekly newspaper or other publication with general circulation in the area of the existing or proposed animal feeding operation, and a copy of the notice shall be provided to the applicant; and

(iii) Within one hundred ten days approve or deny the application and transmit its findings and conclusions to the applicant.

§ 54-2426. Applications; contents.

Each application for a National Pollutant Discharge Elimination System permit or construction and operating permit shall include, in addition to other requirements, (1) a certification that the information contained in the application is accurate to the best of the applicant's knowledge and belief and that the applicant has the authority under the laws of the State of Nebraska to sign the application and (2) a completed nutrient management plan and supporting documentation unless such information has been previously submitted and is unchanged. The nutrient management plan shall be considered a part of the application. For National Pollutant Discharge Elimination System permits, the plan shall, at a minimum, meet and conform to the requirements of the National Pollutant Discharge Elimination System in the federal Clean Water Act, 33 U.S.C. 1251 et seq. A copy of the nutrient management plan and supporting documentation shall continuously

be kept on file at the department. The operator shall at least annually update changes made to the nutrient management plan as required pursuant to rules and regulations adopted and promulgated by the council. For a construction and operating permit, the plan shall contain, at a minimum, the information which the department required to be included in all nutrient management plans on January 1, 2004.

§ 54-2427. Public participation; when.

Once the department has made a determination to approve or deny an application for a National Pollutant Discharge Elimination System permit, the department shall provide opportunities for public participation, including, but not limited to, public comment, opportunity for public hearing, and agency response to comments, which are at least as stringent as the requirements of the National Pollutant Discharge Elimination System in the federal Clean Water Act, 33 U.S.C. 1251 et seq.

§ 54-2428. National Pollutant Discharge Elimination System permit; construction and operating permit; application and modification; fees; Livestock Waste Management Cash Fund; created; use; investment; report.

(1) Any person required to obtain a National Pollutant Discharge Elimination System permit for an animal feeding operation or a construction and operating permit for a livestock waste control facility shall file an application with the department accompanied by the appropriate fees in the manner established by the department. The application fee shall be established by the council with a maximum fee of two hundred dollars. For major modifications to an application or a permit, the fee shall equal the amount of the application fee.

(2) On or before March 1, 2006, and each year thereafter, each person who has a National Pollutant Discharge Elimination System permit or who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and a state operating permit, a construction and operating permit, or a construction approval issued pursuant to the Environmental Protection Act or the Livestock Waste Management Act shall pay a per head annual fee based on the permitted capacity identified in the permit for that facility. The department shall invoice each permittee by February 1, 2006, and February 1 of each year thereafter.

(3) The initial annual fee shall be: Beef cattle, ten cents per head; veal calves, ten cents per head; dairy cows, fifteen cents per head; swine larger than fifty-five pounds, four dollars per one hundred head or fraction thereof; swine less than fifty pounds, one dollar per one hundred head or fraction thereof; horses, twenty cents per head; sheep or lambs, one dollar per one hundred head or fraction thereof; turkeys, two dollars per one thousand head or fraction thereof; chickens or ducks with liquid manure facility, three dollars per one thousand head or fraction thereof; and chickens or ducks with other than liquid manure facility, one dollar per one thousand head or fraction thereof. This fee structure may be reviewed in fiscal year 2007-08.

(4) Beginning in fiscal year 2007-08, the department shall annually review and adjust the fee structure in this section and section 54-2423 to ensure that fees are adequate to meet twenty percent of the program costs from the previous fiscal year. All fees collected under this section and sections 54-2423, 54-2435, and 54-2436 shall be remitted to the State Treasurer for credit to the Livestock Waste Management Cash Fund which is created for the purposes described in the Livestock Waste Management Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Livestock Waste Management Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) On or before January 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all direct and indirect costs incurred in the previous fiscal year in carrying out the Livestock Waste Management Act, including the number of inspections conducted, the number of animal feeding operations with livestock waste control facilities, the number of animal feeding operations inspected, the size of the livestock waste control facilities, the results of water quality monitoring programs, and other elements relating to carrying out the act. The Appropriations Committee of the Legislature shall review the report in its analysis of executive programs in order to verify that the revenue generated from fees was used solely to offset appropriate and reasonable costs associated with carrying out the act.

§ 54-2429. National Pollutant Discharge Elimination System permit; construction and operating permit; application; approval from Department of Natural Resources; Department of Environmental Quality; powers; applicability of Engineers and Architects Regulation Act.

(1) An applicant for a National Pollutant Discharge Elimination System permit or a construction and operating permit under the Environmental Protection Act or the Livestock Waste Management Act shall, before issuance by the Department of Environmental Quality, obtain any necessary approvals from the Department of Natural Resources under the Safety of Dams and Reservoirs Act and certify such approvals to the Department of Environmental Quality. The Department of Environmental Quality, with the concurrence of the Department of Natural Resources, may require the applicant to obtain approval from the Department of Natural Resources for any dam, holding pond, or lagoon structure which would not otherwise require approval under the Safety of Dams and Reservoirs Act but which in the event of a failure could result in a significant discharge into waters of the state and have a significant impact on the environment. The Department of Environmental Quality may provide for the payment of such costs of the Department of Natural Resources with revenue generated under section 54-2428.

(2) An applicant required to obtain a National Pollutant Discharge Elimination System permit is subject to the requirements of the Engineers and Architects Regulation Act.

(3) An applicant who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required

to obtain a construction and operating permit is subject to the requirements of the Engineers and Architects Regulation Act.

(4) An applicant who has a small or medium animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit, but not required to obtain a National Pollutant Discharge Elimination System permit, is exempt from the Engineers and Architects Regulation Act.

(5) The department may require an engineering evaluation or assessment performed by a licensed professional engineer for a livestock waste control facility if after an inspection: (a) The department determines that the facility has (i) visible signs of structural breakage below the permanent pool, (ii) signs of discharge or proven discharge due to structural weakness, (iii) improper maintenance, or (iv) inadequate capacity; or (b) the department has reason to believe that an animal feeding operation with a livestock waste control facility has violated or threatens to violate the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts. Animal feeding operations not required to have a permit under the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated pursuant to such acts are exempt from the Engineers and Architects Regulation Act.

§ 54-2430. Surface water runoff; diversion requirements; increase in acreage limitation; conditions.

(1) Except as provided in this section, no new livestock waste control facility shall be constructed and no physical onsite activities specific to a new livestock waste control facility, except the use of a borrow site for construction of other components of the animal feeding operation, shall be initiated unless surface water runoff from the upstream area, except incidental runoff, is adequately diverted around the structure and is not permitted to enter the reservoir area. For purposes of this section, incidental runoff means the runoff that drains from the slope of the embankments, the top of the dam, the reservoir area, the feedlots, the associated roadways, and up to twenty-five acres of additional area that cannot be diverted. Incidental runoff capacity from a twenty-five-year frequency, twenty-four-hour storm shall be provided for in the waste reservoir in addition to the capacity required for the waste effluent or stored materials.

(2) The Department of Natural Resources shall permit a requested increase in the twenty-five-acre limitation for a new livestock waste control facility for an animal feeding operation for which an inspection was requested prior to January 1, 2000, unless the department determines that the detriment to existing water users that would result from permitting the acreage increase would outweigh the detriment to the operator of the animal feeding operation if the increase were not permitted.

(3) For other new livestock waste control facilities, the Department of Natural Resources may permit an increase in the twenty-five-acre limitation if it determines that (a) the

applicant has no reasonable way to limit the amount of the additional runoff acreage to twenty-five acres or less at the proposed location of the livestock waste control facility, (b) the applicant has no reasonable alternative for relocating the livestock waste control facility so that the additional runoff acreage would not exceed twenty-five acres, and (c) either (i) an increase in the permitted runoff acreage would not reduce water supplies to the detriment of existing water users or (ii)(A) the requested facility is for a proposed expansion of an animal feeding operation in existence and in compliance with the Livestock Waste Management Act as of January 1, 2003, (B) the amount of the runoff acreage permitted in excess of the twenty-five-acre limitation is not more than fifteen percent of total permitted feedlot area, and (C) any detriment to existing water users that would result from permitting the acreage increase would be outweighed by the detriment to the operator of the animal feeding operation if the increase were not permitted.

§ 54-2431. Applications; rejection; when; disciplinary actions; grounds.

(1) For purposes of this section:

(a) Applicant means the person who has applied for a National Pollutant Discharge Elimination System permit, a construction and operating permit, or a major modification of a National Pollutant Discharge Elimination System permit or construction and operating permit, but does not include any other person who is a relative, partner, member, shareholder, resident, parent company, subsidiary, or other affiliate of the applicant;

(b) Discharge violation means a discharge, found by the department after investigation, notice, and hearing, to have been caused intentionally or negligently by the applicant or permitholder; and

(c) Permitholder means the person who has received a National Pollutant Discharge Elimination System permit, a construction and operating permit, or a major modification of a National Pollutant Discharge Elimination System permit or construction and operating permit, but does not include any other person who is a relative, partner, member, shareholder, resident, parent company, subsidiary, or other affiliate of the permitholder.

(2) Notwithstanding the rules and regulations adopted and promulgated under subdivision (1)(e) of section 54-2435, the department may reject an application for a new National Pollutant Discharge Elimination System permit, an application for a new construction and operating permit, or an application for a major modification of a National Pollutant Discharge Elimination System permit or a construction and operating permit, and the department may revoke or suspend a National Pollutant Discharge Elimination System permit or construction and operating permit, upon a finding pursuant to subsection (3) of this section that the applicant or permitholder is unsuited to perform the obligations of a permitholder.

(3) The applicant or permitholder shall be determined unsuited to perform the obligations of a permitholder if the department finds, upon an investigation and hearing, that within the past five years the applicant or permitholder:

(a) Has committed three separate and distinct discharge violations at the same animal feeding operation in Nebraska owned or operated by the applicant or permitholder; or

(b) Has a criminal conviction for a violation of section 81-1506 or a felony criminal conviction for violation of the environmental law in any jurisdiction.

§ 54-2432. Acts prohibited.

Except as provided in section 54-2422, it shall be unlawful for any person to:

(1) Construct or operate an animal feeding operation prior to an inspection from the department, unless exempted from inspection by the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated by the council pursuant to such acts;

(2) Construct a livestock waste control facility without first obtaining a construction and operating permit from the department, unless exempted from the requirement for a construction and operating permit by the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated by the council pursuant to such acts. The use of a borrow site for construction of other components of the animal feeding operation does not constitute construction of the livestock waste control facility;

(3) Operate an animal feeding operation prior to construction of an approved livestock waste control facility, unless exempted from the requirement for a livestock waste control facility by the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated by the council pursuant to such acts;

(4) Discharge animal excreta, feed, bedding, spillage or overflow from the watering systems, wash and flushing waters, sprinkling water from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, or other materials polluted by livestock waste in violation of or without first obtaining a National Pollutant Discharge Elimination System permit, a construction and operating permit, or an exemption from the department, if required by the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated by the council pursuant to such acts; or

(5) Violate the terms of a National Pollutant Discharge Elimination System permit or construction and operating permit or any provision of the Livestock Waste

Management Act and rules and regulations adopted and promulgated by the council pursuant to the act.

§ 54-2433. Department; contracts authorized.

In carrying out its responsibilities under the Livestock Waste Management Act, the department may contract with the various natural resources districts as appropriate. The contract may include all tasks or duties necessary to carry out the act but shall not enable the natural resources districts to issue National Pollutant Discharge Elimination System permits or construction and operating permits or initiate enforcement proceedings. The contract may provide for payment of natural resources districts' costs by the department.

§ 54-2434. Enforcement of act; legislative intent.

It is the intent of the Legislature that in enforcing the provisions of the Livestock Waste Management Act the department shall give priority to the larger animal feeding operations in the state.

§ 54-2435. Council; rules and regulations.

(1) The council shall adopt and promulgate rules and regulations for animal feeding operations under the Environmental Protection Act and the Livestock Waste Management Act which provide for:

(a) Requirements for animal feeding operations which shall include:

- (i) Location restrictions and setbacks to protect waters of the state;
- (ii) Applications and inspection requests;
- (iii) Identification of ownership;
- (iv) Numbers, size, and types of animals;
- (v) Type of waste control facility;
- (vi) Design, construction, operation, and maintenance;
- (vii) Monitoring of surface or ground water which may be necessary as determined by the department where a significant risk to waters of the state exists;
- (viii) Nutrient management, a nutrient management plan to be submitted with the application for a National Pollutant Discharge Elimination System permit or a construction and operating permit, and a description of

the types of changes made to the nutrient management plan required to be updated pursuant to section 54-2426;

(ix) Closure and corrective action;

(x) Best management practices; and

(xi) Other such requirements deemed necessary to protect waters of the state;

(b) A National Pollutant Discharge Elimination System permit process for animal feeding operations;

(c) National Pollutant Discharge Elimination System permit issuance, denial, renewal, revocation, suspension, reinstatement, termination, or transfer;

(d) Training requirements for permit holders;

(e) Construction and operating permit issuance, denial, revocation, suspension, reinstatement, termination, or transfer;

(f) Construction and operating permit and National Pollutant Discharge Elimination System permit major modification issuance, denial, revocation, or termination;

(g) Public notice and hearing requirements;

(h) Requirements for existing livestock waste control facilities;

(i) Requirements for adequate area and proper methods and rates for land application of waste and nutrients such as nitrogen and phosphorus;

(j) Requirements for record keeping and reporting;

(k) A fee schedule pursuant to sections 54-2423 and 54-2428;

(l) Procedures for collection of fees pursuant to this section and sections 54-2423 and 54-2428;

(m) Procedures for exemptions as provided for in the requirements of the Environmental Protection Act and the Livestock Waste Management Act; and

(n) Procedures governing proceedings to determine discharge violations under section 54-2431.

(2) Rules and regulations adopted and promulgated under this section may be based upon the size of the animal feeding operation and the form of waste management and may include more stringent requirements for larger animal feeding operations and waste control technologies that are more likely to cause adverse impacts.

(3) The council may adopt and promulgate any other rules and regulations necessary to carry out the purposes of the Environmental Protection Act and the Livestock Waste Management Act.

(4) Rules and regulations adopted pursuant to this section shall be no less stringent than the federal Clean Water Act, 33 U.S.C. 1251 et seq.

(5) If a conflict arises between the authority of the council under the Environmental Protection Act and the authority of the council under the Livestock Waste Management Act, the authority of the council under the Livestock Waste Management Act shall control.

§ 54-2436. Reinstatement of operating permit; conditions; fee.

(1) Any person who held an operating permit on December 31, 2005, and whose permit expired pursuant to rules and regulations may file a request for reinstatement of the operating permit subject to the following conditions:

(a) The request must be filed on or before December 31, 2007;

(b) The person shall certify that the livestock operation is in compliance with the operating permit as it existed on the date the operating permit expired; and

(c) The request shall be accompanied by a twenty-five-dollar nonrefundable filing fee.

(2) The department shall, upon receipt of a complete and timely request for reinstatement, reinstate the permit with the same conditions as existed when the permit expired.

§ 54-2437. Conditional use permit or special exception; county planning commission or county board; powers.

(1) A county planning commission or county board shall grant a conditional use permit or special exception to an existing animal feeding operation seeking to construct or modify a livestock waste control facility if the purpose is to comply with federal or state regulations pertaining to livestock waste management, the operation has complied with inspection requirements pursuant to section 54-2423, and the construction or modification of the livestock waste control facility will not increase the animal capacity of such operation. The number of conditional use permits or special exceptions granted to such an operation under this subsection is unlimited.

(2) A county planning commission or county board shall grant a conditional use permit or special exception to an existing beef cattle or dairy cattle animal feeding operation that has an animal capacity of five thousand or fewer beef cattle or three thousand five hundred or fewer dairy cattle that is seeking to construct or modify a livestock waste control facility if the purpose is to comply with federal or state regulations pertaining to livestock waste management, the operation has complied with inspection requirements pursuant to section 54-2423, and construction or modification of the livestock waste control facility would allow the animal capacity of the operation to increase not more than:

(a) Five hundred beef cattle if the operation has an existing animal capacity of three thousand beef cattle or fewer;

(b) Three hundred beef cattle if the operation has an existing animal capacity of more than three thousand beef cattle but no more than five thousand beef cattle;

(c) Three hundred fifty dairy cattle if the operation has an existing animal capacity of two thousand dairy cattle or fewer; or

(d) Two hundred ten dairy cattle if the operation has an existing animal capacity of more than two thousand dairy cattle but no more than three thousand five hundred dairy cattle.

Only one conditional use permit or special exception per operation is allowed under this subsection.

§ 54-2438. Major modification; applications; contents.

Each application for a major modification of an operating permit, a construction approval, a construction and operating permit, or a National Pollutant Discharge Elimination System permit or an application for a construction and operating permit or a National Pollutant Discharge Elimination System permit shall contain (1) a certification that the information contained in the application is accurate to the best of the applicant's knowledge and belief and that the applicant has the authority under the laws of the State of Nebraska to sign the application, (2) a detailed description of the major modification requested, (3) a completed nutrient management plan and supporting documentation unless such information has been previously submitted and is unchanged, and (4) such information as required by rules and regulations adopted and promulgated by the council.

§ 81-1504. Department; powers; duties.

The department shall have and may exercise the following powers and duties:

[. . .]

(10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(11) To issue, continue in effect, revoke, modify, or deny permits, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, (b) for the discharge of wastes into the air, land, or waters of the state, and (c) for the installation, modification, or operation of disposal systems or any parts thereof;

(12) To require proper maintenance and operation of disposal systems;

(13) To exercise all incidental powers necessary to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

[. . .]

(20) To require all persons engaged or desiring to engage in operations which result or which may result in air, water, or land pollution to secure a permit prior to installation or operation or continued operation;

(21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

[. . .]

§ 81-1505. Council; rules and regulations; standards of air, land, and water quality.

[. . .]

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause and all requirements of the Livestock Waste Management Act.

Chapter 14. NUTRIENT MANAGEMENT PLAN REQUIREMENTS, FIELD ASSESSMENTS, AND PERFORMANCE STANDARDS

001 Each applicant for a permit under these regulations shall submit a nutrient management plan that includes at a minimum the following information as applicable:

001.01 Scaled drawings, topographic maps, or equivalent. Each drawing or map shall be easily readable and include a visual scale, a north directional arrow, a fixed geographic reference point, a permanent bench mark or fixed elevation reference point, the date the drawing or map was completed, and show:

001.01A The spatial location and extent of the animal feeding operation and livestock waste control facilities, including the various components of the facility such as areas designated for stockpiling, composting, or for temporary holding of dead animals, and the area immediately adjacent;

001.01B The location and entire extent of any drainage area controlled or diverted by the operation including the area immediately adjacent to such area with the runoff flow directions indicated;

001.01C The source of the animal feeding operation's water supply, all other wells, and the location of any wetlands or surface water within the boundaries or immediately adjacent to the facility;

001.01D The topography or clearly defined runoff flow direction in and around the operation and facilities, except in the case of small or medium animal feeding operations, consisting of confined buildings with underfloor pits or nearby storage structures that are on or above grade. Cross-sectional drawings may substitute, at the Department's discretion, for detailed topographic drawings or maps;

001.01E Details (such as size, dimensions, capacities, elevations, and materials) for all conveyance structures, for pipe inlets and outlets, pipe penetrations into or out of containment or conveyance structures, lift or pumping stations, liners, and for concrete (including expansion joint construction, reinforcement and joint construction, sealing details, and concrete specifications) and all other non-soil construction materials. A detailed table or figure with the capacities shown at the staff gauge levels specified in Chapter 8, which include capacities at one-foot increments, and critical pumpdown or lagoon treatment levels as appropriate; and

001.01F United States Geological Survey Quadrangle Map(s), or equivalent scaled topographic maps, showing the geographic location of the animal feeding operation and the area extending 2,000 feet from the operation, including the location of all known wells, surface water bodies, homesteads, and businesses that at the time of application lie within 2,000 feet of the facility;

001.02 Estimates of the amounts of manure, litter and process wastewater produced;

001.03 A narrative description of the livestock waste control facilities and how they will function and operate;

001.04 Types of animals, the maximum animal capacity and the average animal weight for each animal type;

001.05 Design calculations for sizing of conveyances and storage facilities and diversion of clean water from the production area;

001.06 Depth and volume tables on at least one-foot increments for all storage facilities, with operating depths clearly identified as needed to maintain facilities to comply with effluent limitations; to maintain minimum treatment volumes in lagoons; and to maintain sludge and sediment accumulations at reasonably manageable levels;

001.07 Procedures for the proper handling and disposal of dead animals;

001.08 Procedures for the proper handling and disposal of chemicals;

001.09 A protocol using either a narrative rate approach or a linear approach as described in section 003 below to land apply manure, litter or process wastewater for the appropriate agricultural utilization of nitrogen from all sources, as well as the expected removal of nitrogen in the harvested plant biomass, and include a nutrient budget for nitrogen and phosphorus that:

001.09A Accounts for all sources of nutrients including, but not limited to, manure, litter, and process wastewater; commercial fertilizer; crop residues and previous legume crops; soil organic matter; available nutrients in the soil; and irrigation water;

001.09B Specifies the form, source, amount, timing, and method of land application of nutrients on each field; and

001.09C Minimizes the movement of nitrogen to ground water and minimizes the movement of nitrogen and phosphorus to surface water;

001.10 For each field or field segment used for land application area:

001.10A The legal description and maps of planned waste application areas to be utilized by the operation;

001.10B A description of the field areas to be used including the number of useable acres, dominant soil type, cropping practices, historic yields

with supporting documentation or published county average yields, a description of any setbacks or buffers, and use of the land by other animal feeding operations;

001.10C Maps or aerial photos which clearly show the location and extent of any surface water or wetlands within the boundaries of the field, as well as the location and extent of any surface water within 200 feet of the field;

001.10D For any areas not owned by the permittee or an owner or authorized representative of the operation, the landowner's name, address, legal description, number of acres and an agreement, signed by the landowner, that clearly identifies the area (legal description and field acres) and allows for the agronomic application of manure, litter, or process wastewater to the land;

001.10E Waste sampling and analytic methods, land application area soil sampling procedures including sampling depths, soil analytic methods, land application methods to be used, and procedures and assumptions used to determine appropriate application rates and frequencies, which comply with these regulations; and

001.10F Record keeping of locations and quantities of livestock wastes and other sources of nutrients land applied, and soil and waste sampling and testing results; and for manure, litter or process wastewater transferred to other persons, the nutrient analysis results and the date, recipient name and address, and approximate amount transferred;

001.11 Sampling and laboratory testing as follows:

001.11A Manure, litter, and process wastewater at least annually for nitrogen and phosphorus content;

001.11B Application site soils for nitrogen content before the initial application of manure, litter, or process wastewater, and then sample and analyze at least annually thereafter if used for application;

001.11C Application site soils for phosphorus content before the initial application of manure, litter, or process wastewater and then at least once every five years thereafter if used for application;

001.11D Irrigation water prior to initial use and at least once every five years thereafter for nitrogen; and

001.11E University of Nebraska guidelines for sampling and analysis may be used. The Department may approve alternate methods as appropriate;

001.12 An application rate of liquid containing manure, litter, or process wastewater that shall not exceed the intake rate of the soil such that runoff of the manure, litter, or process wastewater occurs. Total liquid application shall not exceed the field capacity of the soil;

001.13 Site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants; and

001.14 A field phosphorus risk assessment conducted prior to initial land application of manure, litter, or process wastewater and then prior to subsequent applications if the risk value of any site category listed in Table 3 of Field Phosphorus Risk Assessment (Appendix E) has changed, but in no case less than once every five years. The assessment evaluates such factors as soil type, slope, crop residue, soil fertility, potential for erosion, and planned cropping practices for each field or field segment used for land application, to determine the potential for phosphorus transport from the field or field segment. The assessment shall be completed for each field or field segment using the form provided in Field Phosphorus Risk Assessment (Appendix E), which is based on a method developed by the United States Department of Agriculture Natural Resources Conservation Service, or by using a comparable field phosphorus risk assessment method and forms approved for use by the Department. The plan shall identify the phosphorus risk assessment used for each field or field segment. The planned application rates for manure, litter, or process wastewater shall be consistent with the risk assessment for each field, or field segment, as follows:

001.14A For a field or field segment where there is a low or medium risk of phosphorus movement from the field, a single year's application of manure, litter, or process wastewater may be based on the expected annual available nitrogen from the waste and other sources;

001.14B For a field or field segment where there is a high risk of phosphorus movement from the field, the application of manure, litter, or process wastewater shall be kept at a rate equal to, or less than, the expected phosphorus removal in harvested plant biomass in a single crop year, or for a planned crop sequence of five years or less, that is equal to or less than the expected phosphorus removal in harvested plant biomass for the crop sequence. The application and other sources shall not exceed the expected annual available nitrogen use of the crop; and

001.14C For a field or field segment with a very high risk of phosphorus movement from the field, manure, litter, or process wastewater shall not be applied.

002 Any permit issued pursuant to these regulations shall include terms requiring implementation of a nutrient management plan that, at a minimum, contains best management practices necessary to meet the requirements of this chapter and applicable

effluent limitations and standards. The permit terms for the nutrient management plan are the information, protocols, procedures, best management practices, and other conditions in the nutrient management plan determined by the Director to be necessary to meet the following elements:

002.01 Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

002.02 Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

002.03 Ensure that clean water is diverted, as appropriate, from the production area;

002.04 Prevent direct contact of confined animals with waters of the State;

002.05 Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

002.06 Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the State;

002.07 Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

002.08 Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater using either a narrative rate approach or a linear approach described in section 003 below; and

002.09 Identify specific records that will be maintained to document the implementation and management of the minimum elements described in this section.

003 Permit terms with respect to protocols for land application of manure, litter, or process wastewater shall include the fields available for land application, field-specific rates of application properly developed using either the narrative rate or linear approach, and any timing limitations concerning land application on available fields. Rates of land application shall use one of the following two approaches:

003.01 Linear approach. An approach that expresses rates of application as pounds of nitrogen and phosphorus, including the following specifications:

003.01A Permit terms for the linear approach shall include:

003.01A1 The form and source of manure, litter, and process wastewater to be land-applied;

003.01A2 The timing and method of land application;

003.01A3 The methodology by which the nutrient management plan accounts for the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied; and

003.01A4 Maximum application rates from manure, litter, and process wastewater for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the Director, in pounds per acre, per year, for each field to be used for land application as well as factors necessary to determine the rate. Those factors which shall be terms shall include at least:

003.01A4(a) The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field;

003.01A4(b) The crops to be planted in each field or any other uses of a field such as pasture or fallow fields;

003.01A4(c) The realistic yield goal for each crop or use identified for each field;

003.01A4(d) The nitrogen and phosphorus recommendations from sources specified by the University of Nebraska or other sources approved by the Director for each crop or use identified for each field;

003.01A4(e) Credits for all nitrogen in the field that will be plant available;

003.01A4(f) Consideration of multi-year phosphorus application; and

003.01A4(g) Accounting for all other additions of plant available nitrogen and phosphorus to the field.

003.01A5 For large CAFOs, the maximum amount of manure, litter, and process wastewater to be land applied, calculated at least once each year using the results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application.

003.02 Narrative rate approach. An approach that expresses rates of application as a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied, including the following permit terms:

003.02A Maximum amounts of nitrogen or phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the Director, in pounds per acre, for each field, and certain factors necessary to determine those amounts. Those factors which shall be terms shall include at least:

003.02A1 The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field;

003.02A2 The crops to be planted in each field or any other uses such as pasture or fallow fields (including alternative crops identified in the nutrient management plan);

003.02A3 The realistic yield goal for each crop or use identified for each field; and

003.02A4 The nitrogen and phosphorus recommendations from sources specified by the University of Nebraska or other sources approved by the Director for each crop or use identified for each field.

003.02B The methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter, and process wastewater to be land applied:

003.02B1 Results of soil tests conducted in accordance with protocols identified in the nutrient management plan;

003.02B2 Credits for all nitrogen in the field that will be plant available;

003.02B3 The amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied;

003.02B4 Consideration of multi-year phosphorus application;

003.02B5 Accounting for all other additions of plant available nitrogen and phosphorus to the field

003.02B6 The form and source of manure, litter, and process wastewater;

003.02B7 The timing and method of land application; and

003.02B8 Volatilization of nitrogen and mineralization of organic nitrogen.

003.02C Alternative crops identified in the nutrient management plan that are not in the planned crop rotation, listed by field, in addition to the crops identified in the planned crop rotation for that field, and the nutrient management plan shall include realistic crop yield goals and the nitrogen and phosphorus recommendations from sources specified by the University of Nebraska or other sources approved by Director for each crop. Maximum amounts of nitrogen or phosphorus from all sources of nutrients and the amounts of manure, litter, and process wastewater to be applied shall be determined in accordance with the methodology described this section.

004 Concentrated Animal Feeding Operations using the narrative rate approach shall perform the following requirements, which are not terms of the nutrient management plan:

004.01 Include the following projections in the nutrient management plan submitted to the Director:

004.01A The CAFO's planned crop rotations for each field for the period of permit coverage;

004.01B The projected amount of manure, litter, or process wastewater to be applied;

004.01C Projected credits for all nitrogen in the field that will be plant available;

004.01D Consideration of multi-year phosphorus application;

004.01E Accounting for all other additions of plant available nitrogen and phosphorus to the field;

004.01F The predicted form, source, and method of application of manure, litter, and process wastewater for each crop; and

004.01G Timing of application for each field, insofar as it concerns the calculation of rates of application.

004.02 Calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology required in Section 003.02 before land applying manure, litter, and process wastewater, relying on the following data:

004.02A A field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by this section, and for phosphorus, the results of the most recent soil test conducted in accordance with soil testing requirements approved by the Director; and

004.02B The results of most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

005 If a permittee makes any modifications to a nutrient management plan previously submitted to the Director, the permittee shall notify the Director of the changes. If the changes to the nutrient management plan qualify as a major modification of a construction and operating permit, as defined in Chapter 1 028, the permittee shall submit an application in accordance with Chapter 4 of this Title. When the changes do not constitute a major modification, the following procedures apply:

005.01 The CAFO owner or operator shall provide the Director, if requested, with the most current version of the CAFO's nutrient management plan and identify changes from the previous version, except that the results of calculations made in accordance with the requirements of paragraphs 003.01A5 and 004.02 of this Chapter are not considered changes to the nutrient management plan.

005.02 The Director shall review the revised nutrient management plan to ensure that it meets the requirements of this Chapter and applicable effluent limitations and standards and shall determine whether the changes to the nutrient management plan necessitate revision to the permit terms of the nutrient management plan incorporated into the permit issued to the CAFO. If revision to the permit terms for the nutrient management plan is not necessary, the Director shall notify the CAFO owner or operator and upon such notification the CAFO may implement the revised nutrient management plan. If revision to the permit terms for the nutrient management plan is necessary, the Director shall determine whether such changes are substantial changes as described in paragraph 005.03 below.

005.02A If the Director determines that the changes to the permit terms for the nutrient management plan are not substantial, the Director shall make the revised nutrient management plan publicly available and include it in the permit record, revise the permit terms for the nutrient management plan incorporated into the permit, and notify the owner or operator and inform the public of any changes to the permit terms of the nutrient management plan that are incorporated into the permit.

005.02B If the Director determines that the changes to the permit terms for the nutrient management plan are substantial, the Director shall notify the public and make the proposed changes and the information submitted by the CAFO owner or operator available for public review and comment. The process for public comments, hearing requests, and the hearing process if a hearing is held shall follow the procedures applicable to draft permits set forth in Title 119. The Director may establish, in the CAFO's permit, an appropriate period of time for the public to comment and request a hearing on the proposed changes that differs from the time period specified in Title 119. The Director shall respond to all significant comments received during the comment period and require the CAFO owner or operator to further revise the nutrient management plan if necessary, in order to approve the revision to the permit terms of the nutrient management plan incorporated into the CAFO's permit. Once the Director incorporates the revised permit terms of the nutrient management plan into the permit, the Director shall notify the owner or operator and inform the public of the final decision concerning revisions to the terms and conditions of the permit.

005.03 Substantial changes to the terms of a nutrient management plan incorporated as terms and conditions of a permit include, but are not limited to:

005.03A Addition of new land application areas not previously included in the CAFO's nutrient management plan. Except that if the land application area that is being added to the nutrient management plan is covered by terms of a nutrient management plan incorporated into an existing NPDES permit in accordance with the requirements of section 003 of this Chapter, and the CAFO owner or operator applies manure, litter, or process wastewater on the newly added land application area in accordance with the existing field-specific permit terms applicable to the newly added land application area, such addition of new land would be a change to the new CAFO owner or operator's nutrient management plan but not a substantial change for purposes of this section;

005.03B Any changes to the field-specific maximum annual rates for land application, as set forth in section 003.01 of this Chapter, and to the

maximum amounts of nitrogen or phosphorus derived from all sources for each crop, as set forth in section 003.02 of this Chapter;

005.03C Addition of any crop or other uses not included in the terms of the CAFO's nutrient management plan and corresponding field-specific rates of application expressed in accordance with section 003 of this Chapter; and

005.03D Changes to site-specific components of the CAFO's nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the State.