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901:13-1-11 Land application of animal manure and nutrients.

- (A) Each owner, operator, animal manure applicator, or person responsible for land application of manure from an animal feeding operation shall minimize pollution from occurring on land application areas by following the standards in the "Field Office Technical Guide," or other appropriate methods or management practices approved by the director or the director's designee. In order to minimize the potential for pollution the following items shall be considered, including but not limited to: characteristics of the animal manure, available land, topography, cropping system, method of application, weather, time of the year, condition of the soil, other nutrients applied, and nutrient status of the soil.
- (B) In watersheds in distress, each owner, operator, or person responsible for the land application of nutrients on more than fifty acres of land used for agricultural production and each owner, operator, animal manure applicator, or person responsible for land application of manure, beginning two years after designation of a watershed in distress by the director:
- (1) Shall not surface apply manure ~~between December fifteenth and March first without prior approval for each application from director or the director's designee;~~under any of the following circumstances:
- (a) On snow-covered or frozen soil;
 - (b) When the top two inches of soil are saturated from precipitation; and
 - (c) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period.
- (2) Shall not:
- (a) Surface apply nutrients on snow-covered or frozen soil;
 - (b) Surface apply nutrients when the top two inches of soil are saturated from precipitation; and
 - (c) Surface apply nutrients in a granular form when the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one inch in a twelve-hour period.
- ~~(2) Before December fifteenth and after March first shall not surface apply manure on frozen ground or ground covered in more than one inch of snow. Before December fifteenth and after March first it is permissible to apply manure on frozen or snow covered ground only when manure is injected or incorporated within twenty-four hours of surface application;~~
- ~~(3) May land apply snowpack manure when there is greater than four inches of snow or ice accumulation around animal feeding operations providing that manure accumulation on the animal feedlot does not exceed the volume accumulated with a three day scraping interval or one inch, whichever is less. Plans for any land application of snowpack manure must be incorporated into an approved nutrient management plan or each application shall be submitted for approval by the director or the director's designee;~~
- ~~(4)~~ (3) Shall keep records of manure storage volumes and ensure a minimum manure storage capacity of one hundred and twenty days on December first of each year;

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~~(5) Shall not surface apply manure if the local weather forecast for the land application area contains a greater than fifty per cent chance of precipitation exceeding one half inch for a period extending twenty four hours after the projected start of the land application of manure. Records of the local weather forecast shall be kept and made available upon request by the director or the director's designee. Local weather forecasts and hourly weather graph information is available at www.noaa.gov.~~

(C) Paragraphs (B)(1) and (B)(2) of this rule does not apply if a person is applying manure or nutrients under any of the following circumstances:

(1) The manure or nutrients are injected into the ground.

(2) The manure or nutrients are incorporated within twenty-four hours of surface application.

(3) The manure or nutrients are applied to a growing crop.

~~(C)(D) Upon designation by the director of any~~ Within a watershed designated as in distressed ~~distress, and upon the submission and approval of a nutrient management plan described in 901:13-1-19(B) of Ohio Administrative Code, each owner, operator, or person responsible for the land application of nutrients on more than fifty acres of land used for agricultural production and each owner, operator, animal manure applicator, or person responsible for land application of manure shall minimize pollution from occurring from land application areas by following applicable standards in the "Field Office Technical Guide," or other appropriate methods or management practices approved by the director or the director's designee. Failure to install or implement appropriate standards is a violation of this rule regardless of whether pollution to waters of the state has occurred.~~

(E) As used in this rule, "nutrients" means nitrogen, phosphorus, or a combination of both.

901:13-1-19 Nutrient management planning requirements for watersheds in distress.

(A) Each owner, operator, or person responsible for producing, applying, or receiving in excess of three hundred fifty tons and/or one hundred thousand gallons of manure on an annual basis in a watershed in distress or that applies other sources of nutrients on more than fifty acres on an annual basis in a ~~watersheds~~ watershed in distress shall develop and operate in conformance with a nutrient management plan that addresses the methods, amount, form, placement, cropping system and timing of all nutrient applications. An attestation to the completion of these nutrient management plans shall be submitted to the director or the directors designee. ~~Nutrient management plans shall be submitted to and approved by the director or the director's designee. The director or the director's designee shall review and approve or disapprove nutrient management plans.~~ This paragraph does not apply to operations subject to subject to Chapter 903. of the Revised Code, Chapter 6111. of the Revised Code, or section 901:10 of the Administrative Code.

~~(B) In watersheds designated by the director as distressed, the director will establish a deadline for all nutrient management plans to be submitted for review and approval. The deadline will be no earlier than six months and no longer than two years once a watershed has been designated distressed.~~

(1) In watersheds designated by the director as distressed, the director will establish a deadline for all nutrient management plans to be completed. The deadline will be no earlier than twelve months and no longer

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than thirty-six months once a watershed has been designated distressed. The director shall have the authority to set separate and distinct deadlines within the twelve to thirty-six month period for completion of the nutrient management plans by watershed size, farm acreage, or another methodology approved by the director.

(2) Upon completion of a nutrient management plan, the responsible party described in paragraph (A) of this rule shall provide an attestation to the director, or the director's designee, in a form to be determined by the director, confirming the completion of the nutrient management plan.

(3) Any attestation under paragraph (B)(2) of this rule shall be in compliance with the requirements of Chapter and include the following certification statement: "I certify, under penalty of law, that I have completed a nutrient management plan which meets all requirements of Ohio Administrative Code 901:13-1, and any other applicable law or administrative rule. I further certify that I am aware that civil penalties can be imposed for certifying to an untruthful or incomplete nutrient management plan."

(4) After the date of compliance described in paragraph (B)(1) of this rule has passed, within five days of a request by the director or the director's designee, a copy of the nutrient management plan shall be provided by the party responsible.

(5) The department shall conduct an audit of at least five per cent of the submitted attestations each calendar year to determine compliance with this rule.

(C) Nutrient management plans for fields where manure is applied shall be in the form of the Ohio nutrient management workbook, USDA natural resources conservation service comprehensive nutrient management plan (CNMP), or ~~an equivalent a~~ document approved by the director or the director's designee and shall contain the following information:

(1) Land application area's soil tests conducted in accordance with the ~~"Field Office Technical Guide"~~ field office technical guide and that are no older than three years;

(2) Annual manure analysis that is representative of the manure being applied;

(3) Spreading agreements for all land used for manure application not under control of the party responsible for the nutrient management plan;

(4) The number, weight, and kind of all animals;

(5) Total annual volume of manure produced;

(6) Method and seasonal time of utilization and application ~~that recognizes a prohibition on manure application from December fifteenth to March first;~~

(7) Planned manure application rates;

(8) Other nutrients applied, including but not limited to manufactured fertilizer, sewage sludge, and bio-digester residue;

(9) Field information including, but not limited to: location, spreadable acreage, crops grown, and actual and projected yields;

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(10) Type of manure storage and capacity; and

(11) Emergency contact information in case of a spill.

(D) Nutrient management plans for fields where nutrients other than manure are applied shall be in the form of the Ohio nutrient management workbook, USDA natural resources conservation service comprehensive nutrient management plan (CNMP), or a document approved by the director or the director's designee and shall contain the following information:

(1) Land application area's soil tests conducted in accordance with the field office technical guide and that are no older than three years;

(2) Method and seasonal time of utilization and application;

(3) Planned application rates;

(4) Type of nutrients being applied;

(5) Field information including, but not limited to: location, spreadable acreage, crops grown, and actual and projected yields; and

(6) Emergency contact information in case of a spill.

~~(D)~~ (E) Each land application area receiving ~~manure-nutrients~~ shall be assessed with the Ohio nitrogen leaching risk assessment procedure, ~~and~~ the phosphorus index, and the soil test risk assessment procedure for phosphorus as necessary and provided for in the field office technical guide. ~~Manure application~~ Application rates and setback distances shall be based on the most limiting factor of these risk assessment procedures, other criteria outlined in the ~~"Field Office Technical Guide,"~~ field office technical guide, or by other methods approved by the director.

~~(E)~~ (F) Operating records including ~~manure~~-nutrient application, weather forecasts, manure analysis, ~~and~~ soil analysis, and manure storage volumes shall be kept, if applicable, for a minimum of five years by the owner, operator, or person responsible and shall be made available for review by the director or the director's designee with a minimum of twenty-four hours notice. The director or the director's designee shall visit the animal feeding operation and review records a minimum of once every three years and provide a report of the findings to the soil and water conservation district board of supervisors and the department.

~~(F)~~ (G) ~~After plan approval~~ Upon completion of the initial nutrient management plan and submittal of the attestation, nutrient management plans shall be updated as conditions change and shall be ~~submitted~~ updated a minimum of once every three years a new attestation of completion shall be proved to the director or the director's designee ~~to the soil and water conservation district board of supervisors or the director for approval~~. Changes which would require the plan to be updated include, but are not limited to, when the number of animals increase by more than ten per cent or when there is a change in ownership. This plan shall be updated prior to any expansion in the number of agricultural animals by more than ten per cent.

~~(G)~~ (H) For new animal feeding operations located in watersheds in distress, plans must be submitted and approved prior to any initiation of construction of a new facility.

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~~(H) Upon disapproval of a nutrient management plan, any person may request an adjudication hearing pursuant to Chapter 119. of the Revised Code.~~

~~(I) Appeals. Any person denied approval of a nutrient management plan by the director may appeal to the court of common pleas of Franklin county.~~

901:13-1-20 Designating watersheds in distress.

- (A) The director may designate a watershed to be in distress, and thereby set requirements for the storage, handling and land application of manure; and/or the control of the erosion of sediment and substances attached thereto; and associated nutrient management plans for land and operations within the designated watershed boundaries. In evaluating a potential designation, the director may consider whether:
- (1) The watershed is listed as impaired by nutrients and/or sediments from agricultural sources as determined by the director of environmental protection and published in the "Ohio Integrated Water Quality Monitoring and Assessment Report" pursuant to Section 303(d) of the Federal Water Pollution Control Act or waters are identified as such in an approved "Total Maximum Daily Load Report" pursuant to rule 3745-2-12 of the Administrative Code as required by Section 303(d) of the Federal Water Pollution Control Act;
 - (2) The watershed or a portion of the watershed exhibits conditions that are a threat to public health based on information provided by the Ohio department of health or local health district;
 - (3) Streams, lakes, or other waterbodies within the watershed exhibit periodic evidence of algal and/or cyanobacterial blooms capable of producing toxins that are harmful to humans, domestic animals or wildlife;
 - (4) There is a threat to, or presence of contaminants in public or private water supplies;
 - (5) There is a threat to, or presence of contaminants in a primary contact recreational water or a bathing water as designated in Chapter 3745-1 of the Administrative Code;
 - (6) Other unacceptable nuisance conditions exist including the depletion of dissolved oxygen in water that results in impacts to aquatic life;
 - (7) Other situations as determined by the director upon consultation with other federal, state and local agencies.
- (B) Prior to proposing to designate a watershed in distress, the director shall prepare and issue a report documenting the factors in the watershed relating to the items in paragraph (A) of this rule.
- (C) No designation of a watershed in distress shall be issued until the Ohio soil and water conservation commission consents by a majority vote to a proposed designation.
- (D) The director may remove the watershed in distress designation upon reasonable confirmation of a sustained recovery, restoration and mitigation of the factors leading to the original designation.

901:13-1-99 Civil penalties.

- (A) The following violations shall be considered minor violations:

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- (1) Violations of rule 901:13-1-07 of the Administrative Code;
- (2) Violations of rule 901:13-1-08 of the Administrative Code;
- (3) Violations of rule 901:13-1-09 of the Administrative Code;
- (4) Violations of paragraph ~~(B)~~~~(4)~~(B)(3) of rule 901:13-1-11 of the Administrative Code;
- (5) Violations of rule 901:13-1-12 of the Administrative Code; and
- (6) Violations of paragraph ~~(E)~~(F) of rule 901:13-1-19 of the Administrative Code.

(B) The following violations shall be considered moderate violations:

- (1) Violations of rule 901:13-1-02 of the Administrative Code;
- (2) Violations of rule 901:13-1-03 of the Administrative Code;
- (3) Violations of rule 901:13-1-04 of the Administrative Code;
- (4) Violations of rule 901:13-1-05 of the Administrative Code;
- (5) Violations of rule 901:13-1-06 of the Administrative Code;
- (6) Violations of paragraph (A) of rule 901:13-1-11 of the Administrative Code;
- (7) Violations of paragraph ~~(E)~~(D) of rule 901:13-1-11 of the Administrative Code;
- (8) Violations of rule 901:13-1-13 of the Administrative Code;
- (9) Violations of paragraph (A) of rule 901:13-1-19 of the Administrative Code;
- (10) Violations of paragraph (B) of rule 901:13-1-19 of the Administrative Code;
- ~~(10)~~(11) Violations of paragraph ~~(F)~~(G) of rule 901:13-1-19 of the Administrative Code; and
- ~~(11)~~(12) Violations of paragraph ~~(G)~~(H) of rule 901:13-1-19 of the Administrative Code.

(C) Events of noncompliance with section 939.08 of the Revised Code and paragraphs (B)(1) and; (B)(2); ~~(B)(3);~~ ~~and (B)(5)~~ of rule 901:13-1-11 of Administrative Code that meet all of the following parameters shall be considered moderate violations:

(1) Either:

~~(1)~~(a) The total volume of the manure application is less than three hundred and fifty tons of solid manure or one hundred thousand gallons of liquid manure;

(b) The total volume of the nutrient application is less than ten thousand pounds of nitrogen or six thousand pounds of phosphorous;

~~(2)~~(3) The manure or nutrient application does not pose a significant risk of harm to public health or the environment; and

~~(3)~~(4) The manure or nutrient application has not resulted in any discharge of manure or nutrients that enters

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the waters of the state.

(D) Events of noncompliance with section 939.08 of the Revised Code and paragraphs (B)(1) and, (B)(2), ~~(B)(3)~~, ~~and (B)(5)~~ of rule 901:13-1-11 of Administrative Code that meet any of the following parameters shall be considered major violations:

(1) Either:

~~(a)~~ (a) The total volume of the manure application is more than three hundred and fifty tons of solid manure or one hundred thousand gallons of liquid manure;

(b) The total volume of the nutrient application is more than ten thousand pounds of nitrogen or six thousand pounds of phosphorous;

(2) The manure or nutrient application poses a significant risk of harm to public health or the environment.

(3) The manure or nutrient application has resulted in a discharge of manure or nutrients that enters the waters of the state.

(E) Pursuant to sections 939.02 and 939.09 of the Revised Code, a schedule of fines for violations identified in paragraphs (A), (B), (C) and (D) of this rule is hereby established:

(1) The department may assess the following civil penalties for any minor violation:

(a) Not more than two hundred and fifty dollars for a first violation;

(b) Not more than one thousand dollars for a second violation; and

(c) Not more than five thousand dollars for a third violation.

(2) The department may assess the following civil penalties for any moderate violation:

(a) Not more than two thousand dollars for a first violation;

(b) Not more than five thousand dollars for a second violation; and

(c) Not more than ten thousand dollars for a third violation.

(3) The department may assess a civil penalty of not more than ten thousand dollars for any major violation.

(F) Failure to take corrective action as specified by the director or the director's designated representative for any minor violation may be considered a moderate violation.

(G) Failure to take corrective action as specified by the director or the director's designated representative for any moderate violation may be considered a major violation.

(H) All money paid under divisions (E) of this rule shall be deposited into the agricultural pollution abatement fund.