

**IOWA LIVESTOCK
ENVIRONMENTAL
REGULATIONS & MANURE
AGREEMENTS**

**IOWA PORK PRODUCERS
ASSOCIATION
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ANIMAL CAPACITY

Animal weight capacity and animal unit capacity

- Constructed before 2002 legislation – AWC - maximum number of animals confined at any time in a confinement operation multiplied by the average weight during a production cycle
- Constructed or expanded after 2002 legislation – AUC - maximum number of animals confined at any one time in a confinement operation multiplied by the animal unit factor
 - Animal unit factor – swine
 - .4 - more than 55 pounds, .1 – 15 to 55
- Under Iowa law, the AUC of a confinement operation is not included in calculating the AUC of an open feedlot operation – EPA regs currently require adding together if both have same species

CONFINEMENT OPERATIONS

One or two?

- To determine if a permit or manure management plan is required, and if concrete standards apply:
- Two CFO's are considered to be one operation when:
 - At least one of the two is constructed after 5/21/98
 - There is common ownership or management, and
 - They are adjacent; or
 - Utilize a common area or system for manure application
- Adjacent – CFO's within:
 - 1,250 feet if the combined AUC is <1,000
 - 2,500 feet if the combined AUC is >1,000

CONFINEMENT OPERATIONS

One or two?

- Common management
 - Iowa law (DNR rule):
 - Significant control of day-to-day operations
 - DNR interpretation:
 - Common management if two producers contract feed hogs for the same owner if the owner has the right to control marketing, feed rations, or vet services

CONFINEMENT TO OPEN FEEDLOT

Adjacency - One or two?

- DNR interpretation: Adjacency requirements in Iowa law do not apply because under Iowa law, the AUC of a confinement operation is not included in calculating the AUC of an open feedlot operation
- Because EPA regulations currently require adding the AUC's of an open feedlot and with the confinement operation if both have the same species – EPA regulates adjacency of OFO's and CFO's for purposes of NPDES permits
- EPA regs: must be under common ownership & be adjoining or use a common area or system for manure disposal to be considered one operation
- Adjoining: no minimum distance, EPA guidance states that operations separated by a road are adjoining
- The EPA definition of animal feeding operation does not include land application areas

CONSTRUCTION REQUIREMENTS FORMED STORAGE

Three categories of DNR requirements:

- Small Animal Feeding Operations (SAFO's)
500 animal units or less
- Between 500 & 1,000 animal units
- 1,000 animal units and up
 - Construction permit and Matrix
 - No permit for one year after completion of construction without a permit
 - Permit applicant must be site owner (titleholder)

CONSTRUCTION-FORMED STOR.

1,000 animal units or more

- Master matrix
 - Not required if expansion up to 1666 a.u.'s if site constructed as of 4/1/02 or if county has not adopted matrix
 - Supporting documentation, including design, operation, and maintenance plans.
 - If the necessary supporting documentation is not included, DNR takes the position that it may reject the permit application (even if a county passes the matrix) because the matrix is a part of the permit
 - If a county does not pass the matrix, DNR independently scores the matrix, including items the county gave a passing score

CONSTRUCTION-FORMED STOR.

1,000 animal units or more – 6/15/05 DNR rule

- Construction permit required if any construction of a manure storage structure occurs on site
- Permit required even if no physical construction or alteration if there is an increase in manure volume or a modification in the manner manure is stored. Unless increases or modifications are:
 - Within the limits of a previously issued const. permit
 - Determined insignificant by DNR (e.g., double stocking weaned pigs in a wean-to-finish barn)
- No permit required for repairs or additions to a building such as fans, slats, gates, roofs or covers
- Plans for repair or modification to a manure structure must be submitted to DNR to determine if a permit is required

MANURE MANAGEMENT PLANS

Annual updates

- Short form detailing changes in MMP or statement that there are no changes
- Compliance fee - \$.15/a.u. – if contract feeding, the livestock owner is required to pay the fee
- DNR using “tier” system to score producers on compliance to determine how often the operation will be inspected

MANURE MANAGEMENT PLANS

Recordkeeping

- Records - must be kept on site or at a residence or office of the owner or operator within 30 miles of the site
- DNR recordkeeping form – not mandatory, producer can use own form
- Current MMP
- Rate, methods and date(s) of app.
- Field location and number of acres
- Get records immediately (or as soon as possible) from the manure applicator

MANURE MANAGEMENT PLANS

Recordkeeping – commercial N & P

- MMP records must include dates and application rates of commercial N & P on fields receiving manure – including land farmed by someone else where manure is applied under an application agreement.
- DNR cannot bring an enforcement action for over application of N or P on land farmed by someone else unless the producer “knew or should have known” that commercial N or P would result in N or P exceeding legal limits.

MANURE MANAGEMENT PLANS

Recordkeeping – commercial N & P

- Producer must obtain statement from farmer who owns, rents, or leases each field receiving manure specifying the planned commercial N and P fertilizer rates to be applied to each field
- DNR form, but can use own form for individual situations

MANURE MANAGEMENT PLANS

Phosphorus index

Phased in based on date of original MMP

- Before 4/1/02 – P Index required with first annual update MMP on or after 8/25/08
- On or after 4/1/02 & before 10/25/04 – P Index required with first annual update MMP on or after 8/25/06
- On or after 10/25/04 – must comply with P Index

MANURE APPLICATION

All livestock operations – no pollution

- No manure app. within 200 feet of designated area (800 feet if high quality water resource, see DNR website for list) unless manure injected or incorporated on same date or perm. vegetation 50 ft. around water source & no manure on 50 ft. area (does not apply to ag drainage wells)
- Designated areas are:
 - Creeks, rivers, lakes, & designated wetlands
 - Known sinkhole
 - Cistern, drinking water or abandoned well
 - Ag drainage well or surface inlet
 - Excludes lakes or ponds with no outlet and which are entirely on one landowner's land

MANURE APPLICATION

Confinement operations – liquid manure

- Must be injected or incorporated in 24 hrs. if applied within 750 ft. of residence, bus., church, school or public use area
- Does not apply if owner of residence, etc. signs a waiver or if the operation is a SAFO (500 animal units or less capacity)
- Note: DNR may consider incidental spillage (on endrows, etc.) while incorporating as surface application

STOCKPILING MANURE

Confinement Operations

- DNR taking the position that stockpiling manure from any size of confinement operation must meet the same requirements as for formed or unformed manure storage.
- Thus, manure from a confinement hoop building cannot be stockpiled outside of the building unless it is in a concrete or earthen manure storage structure

MANURE APPLICATOR CERTIF.

- Commercial manure service: in the business of transporting, handling, storing, or applying manure for a fee
- DNR interpretation: If a producer applies the producer's manure (from a site that requires applicator certification) to someone else's land and receives money (for either the manure or the application), then the producer must be certified as a commercial applicator instead of as a confinement site manure applicator

COMPOSTING MORTALITIES

- 500 ft. from a residence other than the producer's
- Not in a wetland
- 100 ft. from private well, 200 ft. from public well
- 50 ft. from property lines
- 100 ft. from flowing or intermittent streams, lakes or ponds
- Minimize formation of leachate & prevent runoff into and out of the compost facility
- Minimize ponding, any ponding that occurs must be corrected within 48 hours
- All weather surface of compacted soil, compacted granular aggregates, asphalt, concrete or other relatively impermeable material

COMPOSTING MORTALITIES

- Minimize odors, dust, noise, litter and vectors which may cause nuisance conditions or health hazard
- Storage of finished compost for no more than 18 months
- Mortalities may be composted off-site at another livestock operation without a permit – no restriction on distance and do not have to be from the same owner or operator
- Mortalities that died from infectious disease that can be spread by scavengers or insects or that died from a reportable disease must be disposed of under Iowa Dept. of Ag requirements

COMPOSTING MORTALITIES

- Transportation vehicles must be constructed to prevent release of mortality contaminated materials
- In transporting, the most direct haul route that avoids biosecurity risks must be used
- Compost facilities must be designed for average annual death loss from all sites using the facility, raw materials, and finished compost
- Mortalities from catastrophic death losses (fire or power outage) cannot be composted until DNR approves

COMPOSTING MORTALITIES

- Mortalities must be in the compost within 24 hours
- To control leachate, odors and animal scavenging, must have 12 inch bulking agent cover, 6-12 inches between carcasses, and 12-24 inch base depending on size and number of mortalities
- Compost cannot be removed until soft tissue is fully decomposed
- Compost (including bones) must be applied to cropland to minimize runoff into waters of the state
- Application of compost to other than cropland needs DNR approval (pasture?)
- DNR policy: If mortalities are composted in manure, the compost pile must also meet manure storage structure requirements

MANURE AGREEMENTS

- Parties to the agreement
 - Pork producer
 - Landowner
 - Tenant
 - If have an MMP – may also include tenant but Iowa law for MMP's prohibits a tenant from signing without the landowner
 - If no MMP
 - Tenant may sign unless prohibited by the rental agreement
 - Cannot bind the landowner for longer than the term of the rental agreement

MANURE AGREEMENTS

- Who is responsible for manure application?
- Who pays for manure application?
- Is there any charge for the manure?
- The agreement should state specifically where manure can be applied. Make sure all legal descriptions are correct.
- Are there restrictions on when manure can be applied?
- The agreement may require the landowner to provide the producer with yield records for the producer's MMP

MANURE AGREEMENTS

- Other nutrient applications – commercial fertilizer and/or other manure
 - The agreement should clearly provide:
 - That other nutrient applications supplement and do not replace manure
 - Landowner or tenant must comply with MMP
 - Landowner or tenant must provide producer with statement of intent for DNR regarding planned fertilizer applications
 - Landowner or tenant must provide producer with records of actual fertilizer applications

MANURE AGREEMENTS

- The agreement should state that there is no warranty as to the quality of the manure
- Does the agreement guarantee that manure will be applied or that a minimum amount will be applied?
 - Landowners may want to be assured of receiving a minimum amount of manure each year or over a period of time
 - Pork producers may not want to be required to provide manure each year or any other specific amount of manure

MANURE AGREEMENTS

- If the agreement is written as an easement that simply gives the livestock producer access to the landowner's land but does not guarantee a minimum amount of manure, the landowner cannot require the livestock producer to apply manure

MANURE AGREEMENTS

- For the agreement to “run with the land”, it must be recorded with county recorder
- The livestock producer may request a non-disturbance agreement signed by the landowner’s mortgage lender or contract seller to make sure the agreement stays in effect upon foreclosure or forfeiture of the landowner’s land

MANURE AGREEMENTS

- Liability
 - Each party responsible for their own actions?
 - If producer responsible for manure application, landowner held harmless and indemnified for:
 - Nuisance lawsuit for manure application
 - Other legal action for manure discharges during manure application