

The Livestock and Poultry Rule Revision Group, consisting of representatives from Poultry, Beef, Pork, Dairy, Corn, Soybean, Farm Bureau, and many other consultants and advisors, have been drafting comments on the CFO draft rule recently released by IDEM. These comments are extensive, and our group could use some help in illustrating some of the most important issues with IDEM. One way we have tried to do this is by selecting a few important areas listed below. If producers could use this summary as a basis for submitting their own comments, it will help IDEM understand which areas would be most harmful to the producer.

Please take a look at the explanations below and select a few items of particular importance to you and your operation. Then, using the information at the bottom of this document, submit your concerns about this draft rule **in your own words** directly to IDEM. Thanks in advance for being an advocate for Indiana's Livestock and Poultry Industries.

On Farm Record Keeping

Records of soil tests, manure tests, and application of nutrients should be kept on farm and made available to IDEM inspectors for on farm review. Oppose any requirement to submit the records to IDEM.

Land Application Requirements

The requirement for land available for application of manure should be as narrow as possible because of the costs associated with maintaining acreage that is not needed. No particular land application agreement should be required to be five years in length so long as sufficient acreage is available for each year.

It is inappropriate for the owner of the land application area to enter into a land application agreement with a livestock or poultry producer if the parcel has a tenant farmer. The tenant farmer should have the authority to contract for manure if the lease agreement between the landowner and tenant farmer is submitted along with the land application agreement.

Operations that market manure should only be required to show acreage actually needed for land application based on actual historical practices. Operations that market 100% of their manure should get credit for that.

Producers should not have to submit the names of the owners of their land application areas. This provides no environmental protection but could lead to harassment of the owners of those fields.

Mortality Management

Mortality management is already regulated by BOAH. It is inefficient and confusing for two different government agencies to regulate the same activity. Any further regulations on mortality management should be done by BOAH.

Ground Water Monitoring

The criteria for when ground water monitoring may be required should be included in the rule. Producers should know what they will be required to do based upon environmental considerations and not be required to implement additional measures based upon the number of complaints IDEM receives. The ground water monitoring requirements in the rule will be extremely expensive and require monitoring for the presence of too many items at one time rather than just individual items to identify if a problem may exist that requires further monitoring.

Storm Water Management Plans

The storm water management plans required are excessive for livestock and poultry production facilities. The items which may come off of the farm in storm water are dust and small amounts of manure from driveways and load out areas. There is not reason to require extensive plans on how to manage this water. These are insignificant contributions to any potential water pollution and the plans will be expensive to create and document. A more cost effective practice would involve the implementation of best management practices on farm to manage storm water, such as creating diversions or infiltration areas.

Manure Application: Nitrogen Loss

The rule needs to allow for reasonable losses of nitrogen when manure application is done appropriately. Given the narrow window which exists for nitrogen application and planting in the spring and summer, it is necessary for some nitrogen application to be done in the previous fall. While steps can be taken to limit the loss of nitrogen, it cannot be prohibited. Extensive research has been done by universities to determine appropriate levels of loss when making fall nitrogen applications and those loss levels should be considered acceptable for the purpose of manure and litter application.

Manure Application: Setbacks

Manure application setbacks should vary with the runoff potential of the application method both for accumulating the appropriate number of acres of land application area and for actual use when applying manure. Injection of manure should require a smaller setback than surface application. IDEM should retain its current setback standards.

Manure Application: Phosphorus

Manure applications should allow the placement of multiple years worth of phosphorus in one application based upon the nitrogen need of the planned crop. Phosphorus application should also be allowed when soil test levels are up to 400 ppm. Once soil test levels reach 200 ppm, reduced rates of application should be allowed to assist in a drawdown of soil phosphorus levels but banning applications is excessive, not scientifically justified, and will greatly increase costs for operations, especially small operations with limited capital to invest in new land for application or equipment to transport manure.

Manure Application: Staging

Staging of manure should be allowed for up to 72 hours before the material must be covered or bermed. It is often difficult if not impossible to clean out barns and get manure applied within 24 hours. It is not cost effective or practical to take application equipment to a field to apply manure before all of the needed manure has been hauled in. In those cases where a custom applicator is hired, it would be impossible to get them to use equipment for only portions of days while the manure is hauled in.

Manure Application: Frozen or Snow Covered Ground

Application to frozen or snow covered ground must be allowed because many small or old operations do not have sufficient storage capacities to go from late fall until it is dry enough in the spring to apply manure. In some cases, application to frozen and snow covered ground is more environmentally protective than applying manure when the ground is not frozen. The presence of a frost layer may allow for application equipment to travel over a field and inject manure beneath the frozen layer. Also, applications to frozen ground or ground with minimal snow cover can result in the manure being absorbed into the topsoil and reducing any potential for runoff. Certain criteria for winter time application would be appropriate, such as the need to develop a plan and for requirements such as minimal slopes, cover crops, or additional measures to limit run-off potential.

Opting Out of the NPDES Program

A process should be established for NPDES permit holders to complete appropriate documentation and file notice that they are revoking notice of intent and voluntarily entering CFO program. No new application should be needed since the NPDES permit met the qualifications for a CFO approval. It should be treated similar to a renewal for a CFO approval.

Procedure for Submitting Comments to IDEM (Must be Postmarked, Faxed or Hand Delivered by September 24th):

Once again, please remember to submit any comments in your own words.

Mailed Comments Should Be Addressed To:

#09-615(WPCB) [CFO Rulemaking]
Janet Pittman
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue MC 65-46
Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the receptionist on duty at the 13th Floor reception desk, Office of Legal Counsel, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5970, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.