

Topic: What relationship and implications exist for integrating the NMP with the NSPS?

Specific EPA Questions:

- EPA solicits comments on the appropriate time limit for public review of the NOI and proposed permit conditions incorporating the terms of the NMP into the permit, as well as on fixed minimum time frames for public review, such as 7 days, 15 days, 21 days and 30 days (*Federal Register*, p. 37753).
- CWA section 402(b)(3) provides that the Administrator, in approving State programs, shall make sure adequate authority exists to ensure notice to “any other State the waters of which may be affected” and Section 402(b)(5) provides that the Administrator must insure that any State whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State” and that if those recommendations are rejected that the permitting State notify the affected State in writing of the reasons for the rejection... EPA solicits comments from States and other interested parties as to whether this approach is adequate or whether there are specific requirements for review by affected States that should be added to this proposal (*Federal Register*, p. 37753).

Our Concern:

The details within the NMP are an integral part of obtaining the “zero discharge designation.” Spreading capabilities and availabilities need to be documented to ensure that sufficient quantities of effluent from an “open air” containment structure can be land applied at agronomic rates to prevent the system from discharging due to precipitation events. Therefore, details of the NMP will likely need to be incorporated into the permit.

NMP implications with respect to open NPDES permitted facilities include but many not be limited to the following:

- a. Spring and fall application windows will most likely need to be incorporated into the NMP to ensure sufficient time for pumping manure.
- b. Application quantities for any given window will be variable and probably should “empty” the storage component of the system.
- c. A sufficient quantity of land application area (cropland or grassland) will probably need to be available in both spring and fall spreading windows to apply total volume available in storage regardless of whether the storage is full or not.
- d. When a "catch up spreading" option is required to empty the storage of an 'open' system, how will a "catch up" option be incorporated into a NMP, especially if public comment is required for any spreading area change?
- e. When spreading windows are lost due to unfavorable weather or soil conditions, the storage component may have more than one year's worth of nutrients. How can a NMP allow for “catch up spreading” with regard to available crop acres? Additional land will be needed for agronomic application compared to that needed for scheduled annual application. Is it reasonable to spread manure effluent on growing crops if a spring spreading window is lost due to wet weather conditions during the spring cropping season?

Recommendation:

We recommend that, for general permits, a universal NMP be submitted with permit applications containing decision-making tools used by producers to determine application rates, dates, and methods rather than including site specific information in the permit. This allows for public comment to occur on this universal NMP and reduces the number of comments that the state regulatory agencies would need to review and consider if comments were submitted for each individual NMP submitted for a general permit. In addition, we feel that by

incorporating site specific NMP details into a general permit, you are fundamentally creating a site specific permit.

A typical public comment period for permit applications in the State of Missouri is 30 to 45 days, and we recommend a similar comment period for review of NMPs submitted as a portion of the permit application.

Extensive comments on nutrient management plans are contained in another section of this comment packet.