

Topic: Should changes in application area constitute a significant change to an NMP?

Our Concern:

As stated in the Federal Register (p. 37756), under this proposal, *"EPA is proposing that substantial changes would include, but are not limited to: ... (4) the addition of land application areas not previously included in the nutrient management plan."*

EPA claims in the Federal Register (p. 37755) that, *"Most routine changes at a facility should not require changes to the NMP itself because of the way NMP's are developed. Nutrient Management Plans are dynamic documents and are developed to accommodate routine variations, for example changes resulting from anticipated crop rotation or climatic variability inherent in agricultural operations..."* and *"EPA encourages CAFO operators to develop, at the outset, NMP's that thoughtfully anticipate, to the extent feasible, all contingencies and changes in operations that may occur over the course of the permit."*

Many CAFO's in Missouri spread manure or litter on land not owned by the CAFO operator. The most common changes in a strategically-based nutrient management plan are those related to the loss of an application area because of a change in land ownership or changing cropping patterns on land not owned by the CAFO operator. While some of these changes can be anticipated, it is unreasonable to assume that all land application availability changes that will occur over the five-year term of the permit can be.

This requirement is very likely to significantly increase the workload for CAFO operators and state regulatory staff with little gain in water quality protection. Multiple amendments to NMP's can be anticipated for nearly every CAFO over the five-year permit period unless EPA relaxes this proposed change..

Recommendation:

Missouri strongly urges EPA to allow states to allow limited changes in land application area without triggering the public notice provisions of the regulation.

We believe that alternative methods for working with CAFO operators when small changes in land application areas are required because of changes in land ownership can be protective of water quality and provide for informing the affected members of the public.