

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 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;

(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.

~~(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.

Effective:

Five Year Review (FYR) Dates: 10/15/2018

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 939.02
Rule Amplifies: 939.02
Prior Effective Dates: 12/23/2010, 12/31/2015 (Emer.), 04/01/2016