

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Leoni, Carlie M.](#); [Bilbruck, Shannon O.](#)
Subject: FW: First Notice Documents from JCAR
Date: Friday, March 10, 2023 11:40:23 AM
Attachments: [Econ State Mandate.docx](#)
[35-502NT-P JCAR.docx](#)
[35-502RG-P r01 \(47-10\).pdf](#)
[Litera Compare Redline - 35-502RG-P Agency and 35-502RG-P r01 \(47-10\).pdf](#)
[image001.png](#)

Here's the second one.

Please docket in R18-25 this forwarded email and attachments from JCAR.

Thank you.

Richard R. McGill, Jr.
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Illinois Pollution Control Board
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From: Knudson, Cheryl J. <CherylK@ilga.gov>
Sent: Friday, March 10, 2023 9:33 AM
To: McGill, Richard <Richard.McGill@illinois.gov>
Cc: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: [External] RE: First Notice Documents from JCAR

First Notice documents are attached for your review:

- ECON State Mandate Letter
- Notice Page - (formatted)
- First Notice - Line Numbered Version (r01) - Please use this document to draft First Notice changes.
- Redline - Comparing: Agency Proposed vs. JCAR r01

If you have any questions or concerns, please contact Jonathan Eastvold @ 217-524- 9010.

Thank you,
Cheryl

Cheryl Knudson
Joint Committee on Administrative Rules

Illinois General Assembly
700 Stratton Building
Springfield, IL 62706

217.785.8993
cherylk@ilga.gov

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 502
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
502.101	Amendment
502.102	Amendment
502.103	Amendment
502.104	Amendment
502.105	Amendment
502.106	Amendment
502.201	Amendment
502.202	Amendment
502.204	Amendment
502.206	Amendment
502.207	Amendment
502.301	Amendment
502.303	Amendment
502.304	Amendment
502.305	Amendment
502.310	Amendment
502.315	Amendment
502.320	Amendment
502.325	Amendment
502.401	Amendment
502.402	Amendment
502.403	Amendment
502.500	Amendment
502.505	Amendment
502.510	Amendment
502.515	Amendment
502.520	Amendment
502.600	Amendment
502.605	Amendment
502.610	Amendment
502.615	Amendment
502.620	Amendment
502.625	Amendment
502.630	Amendment
502.635	Amendment

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

502.640	Amendment
502.645	Amendment
502.710	Amendment
502.720	Amendment
502.730	Amendment
502.800	Amendment
502.820	Amendment
502.830	Amendment
502.840	Amendment
502.APPENDIX A	Repealed

- 4) Statutory Authority: Implementing Sections 9, 10, 12, 13, 21 and 22 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9, 10, 12, 13, 21, 22 and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions within 35 Ill. Adm. Code Subpart E. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments to Part 502 include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to Docket R18-25 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may be addressed to:
- Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601
- Interested persons may download copies of the Board's opinions and orders in R18-25 from the Board's Web site at pcb.illinois.gov and may also request copies by calling the Clerk's office at 312-814-3620.
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments in this rulemaking will not themselves require recordkeeping or reporting procedures for compliance.
- C) Types of Professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Board does not expect that the proposed rules will impact small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2022

The full text of the Proposed Amendments begins on the next page:

First Notice

JCAR350502-2303186r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE E: AGRICULTURE RELATED POLLUTION
3 CHAPTER I: POLLUTION CONTROL BOARD
4

5 PART 502
6 PERMITS
7

8 SUBPART A: PERMITS REQUIRED
9

10	Section	
11	502.101	NPDES Permit Requirement and Duty to Maintain Permit Coverage
12	502.102	Land Application Discharges and Agricultural Stormwater
13	502.103	Large CAFOs
14	502.104	Medium CAFOs
15	502.105	Small CAFOs
16	502.106	Case-By-Case Designation Requiring NPDES Permits
17		

18 SUBPART B: PERMIT APPLICATIONS
19

20	Section	
21	502.201	Permit Applications
22	502.202	Permit Application Submissions
23	502.203	New Applications (Repealed)
24	502.204	Renewal
25	502.205	New Operations (Repealed)
26	502.206	Signatures
27	502.207	Disclosure Required for Land Trusts
28		

29 SUBPART C: PERMIT ISSUANCE AND CONDITIONS
30

31	Section	
32	502.301	Standards for Issuance
33	502.302	Duration of Permits
34	502.303	New Source Standards
35	502.304	Issuance and Conditions
36	502.305	Agency Criteria
37	502.310	CAFOs Seeking Coverage Under NPDES General Permits
38	502.315	CAFO Permit Requirements
39	502.320	Recordkeeping Requirements
40	502.325	Annual Report
41		

42 SUBPART D: APPEAL AND ENFORCEMENT
43

- 44 Section
- 45 502.401 Appeals from Conditions in Permits
- 46 502.402 Defenses
- 47 502.403 Modification or Termination of Permits

48

49 SUBPART E: REQUIREMENTS FOR DEVELOPING AND
50 IMPLEMENTING NUTRIENT MANAGEMENT PLANS

51

- 52 Section
- 53 502.500 Purpose, Scope and Applicability
- 54 502.505 Nutrient Management Plan Information
- 55 502.510 Nutrient Management Plan Requirements
- 56 502.515 Terms of Nutrient Management Plan
- 57 502.520 Changes to the Nutrient Management Plan

58

59 SUBPART F: LIVESTOCK WASTE DISCHARGE LIMITATIONS
60 AND TECHNICAL STANDARDS

61

- 62 Section
- 63 502.600 Applicability
- 64 502.605 Livestock Waste Discharge Limitations for the Production Area for Permitted
65 CAFOs
- 66 502.610 Additional Measures for CAFO Production Areas
- 67 502.615 Nutrient Transport Potential
- 68 502.620 Protocols to Land Apply Livestock Waste
- 69 502.625 Determination of Livestock Waste Application Rates
- 70 502.630 Protocols to Land Apply Livestock Waste During Winter
- 71 502.635 Manure and Soil Sampling and Analysis
- 72 502.640 Inspection of Land Application Equipment for Leaks
- 73 502.645 Land Application Setback Requirements

74

75 SUBPART G: ADDITIONAL LIVESTOCK WASTE DISCHARGE LIMITATIONS

76

- 77 Section
- 78 502.710 New Source Performance Standards for Dairy Cows and Cattle Other Than Veal
79 Calves
- 80 502.720 Horse and Sheep CAFOs: BPT, BAT and NSPS
- 81 502.730 Duck CAFOs: BPT and NSPS

82

83 SUBPART H: NEW SOURCE PERFORMANCE STANDARDS FOR
84 NEW SWINE, POULTRY AND VEAL LARGE CAFOS

85

- 86 Section

- 87 502.800 Applicability
- 88 502.810 Production Area Requirements
- 89 502.820 Land Application Area Requirements
- 90 502.830 Alternative Best Management Practice Livestock Waste Discharge Limitations
- 91 502.840 Technical Evaluation

92

93 502.APPENDIX A References to Previous Rules (Repealed)

94

95 AUTHORITY: Implementing Sections 9, 10, 12, 13, 21, and 22 of the Environmental Protection
 96 Act [415 ILCS 5/9, 10, 12, 13, 21, 22] and authorized by Section 27 of the Environmental
 97 Protection Act [415 ILCS 5/27].

98

99 SOURCE: Filed and effective January 1, 1978; amended at 2 Ill. Reg. 44, p. 137, effective
 100 October 30, 1978; codified at 7 Ill. Reg. 10594; amended in R12-23 at 38 Ill. Reg. 17687,
 101 effective August 11, 2014; amended in R18-25 at 47 Ill. Reg. _____, effective _____.

102

103 SUBPART A: PERMITS REQUIRED

104

105 **Section 502.101 NPDES Permit Requirement and Duty to Maintain Permit Coverage**

106

- 107 a) A Concentrated Animal Feeding Operation (CAFO) is a point source. Any
 108 pollutants discharged~~discharge of pollutants~~ into waters of the United States from
 109 a CAFO is prohibited unless authorized by an NPDES permit or unless the
 110 discharge is an agricultural stormwater discharge as described in Section
 111 502.102(b). No person is permitted to~~shall~~ cause or allow a discharge from a
 112 CAFO and violate~~in violation of~~ federal or State law, including ~~but not limited to~~
 113 the Clean Water Act (CWA) (33 U.S.C.~~USC~~ 1251), the Act or Board regulations.
- 114
- 115 b) The owner or operator of a CAFO must seek coverage under an NPDES permit if
 116 the CAFO discharges.
- 117
- 118 c) The owner or operator of a CAFO that discharges must either apply for an
 119 individual NPDES permit or submit a notice of intent for coverage under an
 120 NPDES general permit. If the Agency has not made a general permit available to
 121 the CAFO, the CAFO owner or operator must apply~~submit an application~~ for an
 122 individual permit to the Agency. All permit applications and applications for
 123 permit modifications must contain the information stated~~set forth~~ in Subpart B.
- 124
- 125 d) Any permitted CAFO must~~shall~~ apply for reissuance of the NPDES permit at least
 126 ~~not less than~~ 180 days before the NPDES permit expires~~prior to the expiration~~
 127 ~~date of the permit~~ unless the CAFO will not discharge after the NPDES permit
 128 expires~~the expiration date of the NPDES permit~~.
- 129

- 130 e) The owner or operator of a new CAFO that will discharge must apply for NPDES
131 permit coverage at least 180 days ~~before~~~~prior to~~ the time that the CAFO
132 ~~begins~~~~commences~~ operation.
- 133
- 134 f) Once an Animal Feeding Operation is defined as a CAFO for at least one type of
135 animal, the NPDES permit requirements for CAFOs apply ~~with respect to~~ all
136 ~~confined~~ animals ~~in confinement~~ at the animal feeding operation and all livestock
137 waste generated by those animals or the production of those animals.

138
139 (Source: Amended at 47 Ill. Reg. _____, effective _____)
140

141 **Section 502.102 Land Application Discharges and Agricultural Stormwater**

- 142
- 143 a) The ~~discharge of~~ livestock waste ~~discharge into to~~ waters of the United States
144 from a CAFO ~~resulting from a result of~~ the livestock waste application ~~by the~~
145 ~~CAFO~~ to land application areas is a discharge from that CAFO subject to NPDES
146 permit requirements, except when it is an agricultural stormwater discharge and
147 therefore exempt from the definition of a point source under section 502 of the
148 Clean Water Act.
- 149
- 150 b) Where livestock waste has been land applied ~~both according to site-specific in~~
151 ~~accordance with site specific~~ nutrient management practices that ensure
152 appropriate agricultural ~~use~~~~utilization~~ of the ~~livestock waste's~~ nutrients ~~in the~~
153 ~~livestock waste~~ and in compliance with Section 502.510 for permitted CAFOs and
154 Section 502.510(b) for unpermitted Large CAFOs, a precipitation-related
155 discharge of livestock waste from land application areas of an unpermitted large
156 CAFO or a permitted CAFO, is an agricultural stormwater discharge.
- 157
- 158 c) Unpermitted large CAFOs must maintain the documentation specified in Section
159 502.510(b)(16) either on site or at a nearby office, or otherwise make that
160 documentation readily available to the Agency upon request.

161
162 (Source: Amended at 47 Ill. Reg. _____, effective _____)
163

164 **Section 502.103 Large CAFOs**

165
166 An Animal Feeding Operation is defined as a Large CAFO if at least the numbers of animals
167 specified in any of the following categories are stabled or confined:
168

Number of Animals	Kind of Animals
700	Mature dairy cows, whether milked or dry
1,000	Veal calves

1,000	Cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.
2,500	Swine, each weighing 55 pounds or more
10,000	Swine, each weighing less than 55 pounds
500	Horses
10,000	Sheep or lambs
55,000	Turkeys
30,000	Laying hens or broilers, if the Animal Feeding Operation uses a liquid manure handling system
125,000	Chickens (other than laying hens), if the Animal Feeding Operation uses other than a liquid manure handling system
82,000	Laying hens, if the Animal Feeding Operation uses other than a liquid manure handling system
30,000	Ducks, if the Animal Feeding Operation uses other than a liquid manure handling system
5,000	Ducks, if the Animal Feeding Operation uses a liquid manure handling system

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(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.104 Medium CAFOs

- a) An Animal Feeding Operation is defined as a Medium CAFO if the following numbers of animals specified in any of the following categories are stabled or confined and ~~the provisions of~~ subsection (b), (c) or (d) ~~of this Section~~ is met:

Number of Animals	Kind of Animals
200 to 699	Mature dairy cows, whether milked or dry
300 to 999	Veal calves
300 to 999	Cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.
750 to 2,499	Swine, each weighing 55 pounds or more
3,000 to 9,999	Swine, each weighing less than 55 pounds
150 to 499	Horses
3,000 to 9,999	Sheep or lambs
16,500 to 54,999	Turkeys
9,000 to 29,999	Laying hens or broilers, if the Animal Feeding Operation uses a liquid manure handling system
37,500 to 124,999	Chickens (other than laying hens), if the Animal Feeding Operation uses other than a liquid manure handling system

25,000 to 81,999	Laying hens, if the Animal Feeding Operation uses other than a liquid manure handling system
10,000 to 29,999	Ducks, if the Animal Feeding Operation uses other than a liquid manure handling system
1,500 to 4,999	Ducks, if the Animal Feeding Operation uses a liquid manure handling system

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- b) Pollutants are discharged into waters of the United States through a man-made ditch, flushing system or other similar man-made device;
- c) Pollutants are discharged directly into waters of the United States that originate outside of and pass over, across, through or otherwise come into direct contact with the animals confined in the operation; or
- d) The Agency designates the Animal Feeding Operation ~~is designated~~ as a CAFO under~~by the Agency pursuant to~~ Section 502.106.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.105 Small CAFOs

An Animal Feeding Operation is a Small CAFO if the Agency designates it ~~is designated~~ as a CAFO under~~by the Agency pursuant to~~ Section 502.106, and it is not a Medium CAFO.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.106 Case-By-Case Designation Requiring NPDES Permits

- a) ~~Despite~~Notwithstanding any other provision of this Part, the Agency may require any Animal Feeding Operation not falling within Section 502.103 or 502.104 to obtain an NPDES permit by designating the Animal Feeding Operation as a CAFO upon determining that it significantly contributes~~is a significant contributor of~~ pollutants to waters of the United States. In ~~determining~~making the determination of whether the Animal Feeding Operation significantly contributes~~is a significant contributor of~~ pollutants, the Agency must~~shall~~ consider the following factors:

- 1) The ~~size of the~~ Animal Feeding Operation's size~~Operation~~ and the amount of livestock wastes reaching waters of the United States;
- 2) The ~~location of the~~ Animal Feeding Operation's location~~Operation~~ relative to waters of the United States;

- 215 3) The means to convey~~of conveyance of~~ livestock wastes into waters of the
 216 United States;
- 217
- 218 4) The slope, vegetation, rainfall and other factors relative to the likelihood
 219 or frequency of livestock~~discharge of livestock~~ waste discharge into
 220 waters of the United States; and
- 221
- 222 5) Other ~~such~~ factors signifying~~bearing on the significance of~~ the pollution
 223 problem sought to be regulated.
- 224
- 225 b) The Agency, however, may not require a permit under subsection (a) for any
 226 Animal Feeding Operation with less than the number of animals stated~~set forth~~ in
 227 Section 502.104, unless it meets either of the following conditions:
- 228
- 229 1) Pollutants are discharged into waters of the United States through a man-
 230 made ditch, flushing system or other similar man-made device; or
- 231
- 232 2) Pollutants are discharged directly into waters of the United States that
 233 originate outside of and pass over, across, through or otherwise come into
 234 direct contact with the animals confined in the operation.
- 235
- 236 c) In no case may a permit application be required from an Animal Feeding
 237 Operation designated under~~pursuant to~~ this Section until the operation has been
 238 inspected and determined~~there has been an onsite inspection of the operation and~~
 239 a determination that the operation should and could be regulated under the permit
 240 program.
- 241
- 242 d) Before~~Prior to~~ designating an Animal Feeding Operation as a CAFO, the Agency
 243 must~~shall~~ send the Animal Feeding Operation a written notice that it intends to
 244 designate the Animal Feeding Operation as a CAFO. The notice must~~shall~~
 245 include grounds for the designation and information regarding the opportunity to
 246 request a meeting with the Agency within 90 days after the Animal Feeding
 247 Operation's receipt of the notice to present evidence that it is not significantly
 248 contributing~~a significant contributor of~~ pollutants to waters of the United States as
 249 provided in subsection (a). Beginning 90 days after the Animal Feeding
 250 Operation receives initial written notice ~~is received by the Animal Feeding~~
 251 Operation, the Agency may designate the Animal Feeding Operation as a CAFO.
 252 The Agency must~~shall~~ send the Animal Feeding Operation a written notice of its
 253 designation decision and ~~the~~ grounds to designate~~for the designation~~ in writing.
- 254
- 255 e) Upon receipt of the Agency's ~~designation~~ decision to designate, the owner or
 256 operator must apply for a~~shall make an~~ NPDES permit with~~application to~~
 257 the Agency within 90 days. The Agency may issue an NPDES permit with a

258 compliance schedule detailing interim steps to be taken along with a final date,
259 not to exceed 14 months from the date the permit is issued, by which compliance
260 with the Act and all applicable regulations ~~must~~ shall be achieved.

- 261
262 f) The question of whether the designation was proper will remain open while the
263 permit application is pending~~during the pendency of the permit application~~. Any
264 appeal of the Agency's designation decision must be made as part of an NPDES
265 permit appeal.

266
267 (Source: Amended at 47 Ill. Reg. _____, effective _____)

268
269 SUBPART B: PERMIT APPLICATIONS

270
271 **Section 502.201 Permit Applications**

- 272
273 a) All applications from a new or existing CAFO for any permit, including an
274 individual permit or a general permit, required under this Chapter ~~must~~ shall
275 contain, where appropriate, the following information and documents:
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277 1) The name of the owner or operator;
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279 2) The facility location and mailing addresses;
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281 3) The latitude and longitude at the entrance to the production area;
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283 4) Specific information about the average and maximum number and type of
284 animals, whether in open confinement or housed under roof (beef cattle,
285 broilers, layers, swine weighing 55 pounds or more, swine weighing less
286 than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and
287 lambs, horses, ducks, turkeys, other);
288
289 5) A statement as to any projected changes in the ~~size of the~~ livestock
290 operation's size~~operation~~ and when they may occur during the term of the
291 permit;
292
293 6) The type of containment and storage (anaerobic lagoon, roofed storage
294 shed, storage ponds, underfloor pits, above ground storage tanks, below
295 ground storage tanks, concrete pad, impervious soil pad, other) and total
296 capacity for manure, litter, and process wastewater storage (in tons or
297 gallons);
298
299 7) A topographic map of the geographic area in which the CAFO is located
300 showing the specific location of the production area and land application

- 301 areas, and indicating the following:
302
303 A) Direction and location of surface and subsurface drainage and
304 other discharges from the facility; and
305
306 B) Location of waterways in the area.
307
308 8) Estimated amounts of livestock waste generated per year (in tons or
309 gallons);
310
311 9) The total ~~acrea~~~~ge~~~~number of acres~~ of land application area and the
312 estimated amount of waste to be applied to those acres per year;
313
314 10) Estimated amount of livestock waste transferred to other persons per year
315 (in tons or gallons);
316
317 11) A nutrient management plan that is consistent with ~~the requirements of~~
318 Subpart E;
319
320 12) A stormwater pollution prevention plan;
321
322 13) A spill control and prevention plan; and
323
324 14) A statement identifying and justifying any departure from current design
325 criteria ~~the Agency promulgates~~~~promulgated by the Agency~~.
326
327 b) The Agency may adopt procedures requiring ~~such~~ additional information as is
328 necessary to determine whether the CAFO will meet ~~the requirements of~~ the Act
329 and applicable Board regulations.
330
331 c) Applicable requirements of 35 Ill. Adm. Code 309: Subpart A ~~shall~~ apply to
332 applications for NPDES permits required by this Chapter. The Agency may
333 prescribe the form in which information required under this Section ~~must~~~~shall~~ be
334 submitted.

335
336 (Source: Amended at 47 Ill. Reg. _____, effective _____)
337

338 **Section 502.202 Permit Application Submissions**

339
340 All permit applications ~~must~~~~shall~~ be mailed or delivered to Illinois Environmental Protection
341 Agency, Bureau of Water, 1021 N. Grand Ave. E., Springfield IL 62794 or electronically
342 submitted at CAFO@EPA.state.il.us.
343

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.204 Renewal

Permittees seeking reissuance of their NPDES permit ~~under pursuant to~~ Section 502.101(d) must apply for reissuance of the permit, using proper forms, ~~at least not less than~~ 180 days ~~before prior to~~ the ~~permit expires~~ ~~permit expiration date~~. The Agency will notify those persons of the need for renewal at least 60 days ~~before prior to~~ the date on which the renewal application must be submitted; however, failure to do so does not excuse non-compliance with this Chapter.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.206 Signatures

An application submitted by a corporation ~~must shall~~ be signed by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if ~~that such~~ representative is responsible for ~~operating the overall operation of~~ the facility. In the case of a partnership or a sole proprietorship, the application must be signed by a general partner or the proprietor, respectively. In the case of a publicly-owned facility, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.207 Disclosure Required for Land Trusts

An applicant filing for an NPDES permit ~~must shall~~ satisfy ~~the requirements of~~ the Land Trust Beneficial Interest Disclosure Act [735 ILCS 405 et. seq.] before the Agency grants the applicant its permit.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART C: PERMIT ISSUANCE AND CONDITIONS

Section 502.301 Standards for Issuance

The Agency ~~will shall~~ not grant any NPDES permit unless the applicant submits proof that the subject facility:

- a) Will be constructed, modified, or operated so as not to ~~violate cause a violation of~~ the Act or ~~of~~ applicable Board regulations or ~~of~~ the Federal Water Pollution Control Act (CWA) (12 U.S.C. 24), or has been granted a variance under Title IX of the Act; and

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- b) Either conforms to the design criteria the Agency promulgates~~promulgated by the Agency~~ under Section 502.305 or is based on ~~such~~ other criteria which the applicant proves will produce consistently satisfactory results.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.303 New Source Standards

~~Despite~~Notwithstanding any other provision of this regulation, any point source, ~~the construction of~~ which is commenced after the ~~date of~~enactment date of the CWA and which is so constructed as to meet the applicable federal "standard of performance" as defined in Section 306 of the CWA ~~must~~shall not be subject to any more stringent federal "standard of performance" during a ten-year period beginning on the date ~~the construction is completed~~of completion of such construction or during the ~~period of~~depreciation or amortization period of ~~the~~such facility for ~~the purposes of~~Section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first (26 U.S.C. 167 and 169).

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.304 Issuance and Conditions

- a) ~~The provisions of~~35 Ill. Adm. Code 309: Subpart A will~~shall~~ apply to the issuance, conditions and modification of NPDES permits under this Chapter in the same manner as those provisions apply to NPDES permits issued under~~pursuant to~~ 35 Ill. Adm. Code 309. Specific provisions applicable to CAFOs seeking coverage under NPDES general permits are found in Section 502.310.
- b) In addition to specific conditions authorized under this Part, the Agency may impose ~~such~~ conditions in any permit issued under~~pursuant to~~ this Part as may be necessary to accomplish the purposes of the Act or Board regulations.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.305 Agency Criteria

- a) Unless otherwise provided for by Board regulations, the Agency may adopt procedures which ~~states~~set forth criteria for the design and maintenance of facilities subject to this chapter. These procedures ~~must~~shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.
- b) Before adopting new criteria or making substantive changes in any criteria the

430 ~~Agency adopts~~~~adopted by the Agency~~, the Agency ~~must~~~~shall~~ publish a summary
431 of the proposed changes in the Environmental Register and, at the Agency's
432 expense, in a widely circulated agricultural periodical.
433

434 c) In adopting new or revised criteria the Agency ~~must~~~~shall~~ comply with ~~the~~
435 ~~requirements of~~ the Illinois Administrative Procedure Act, [5 ILCS 100 et seq]~~(Ill.~~
436 ~~Rev. Stat. 1981, ch. 127, par. 1001 et seq).~~
437

438 (Source: Amended at 47 Ill. Reg. _____, effective _____)
439

440 **Section 502.310 CAFOs Seeking Coverage Under NPDES General Permits**
441

442 a) CAFO owners or operators must submit a notice of intent that meets the
443 requirements of Section 502.201 and Subpart E ~~of this Part~~ when seeking
444 authorization to discharge under a general permit.
445

446 b) When additional information is necessary to complete the notice of intent or to
447 clarify, modify, or supplement previously submitted material, the Agency may
448 request that information from the owner or operator as provided in 35 Ill. Adm.
449 Code 309.106.
450

451 c) The Agency must notify the public of its proposal to grant coverage under the
452 general permit to the CAFO. This public notice must include the CAFO's nutrient
453 management plan.
454

455 d) The process for submitting public comments and hearing requests, and the hearing
456 process if a request for a hearing is granted, will follow the procedures applicable
457 to draft individual permits found in 35 Ill. Adm. Code 309.109(b) and 309.115
458 through 309.118.
459

460 e) The time period for the public to comment and request a hearing is 30 days
461 following the date of the notice issued ~~under~~~~pursuant to~~ subsection (c).
462

463 f) When a public hearing is held, the Agency must respond to significant comments
464 received during the comment period as provided in 35 Ill. Adm. Code 309.119
465 and 309.120, except that notice and transmission to the USEPA Regional
466 Administrator is not required. If no hearing is held, the Agency ~~must~~~~shall~~ follow
467 the procedures in 35 Ill. Adm. Code 309.112 and 309.120 for Agency action after
468 the comment period. If necessary, the Agency will require the CAFO owner or
469 operator to revise the nutrient management plan ~~in order~~ to be granted permit
470 coverage.
471

- 472 g) When the Agency authorizes coverage for the CAFO owner or operator under the
473 general permit, the terms of the nutrient management plan ~~must~~shall become
474 incorporated as terms and conditions of the permit for the CAFO.
475 ~~Incorporating This incorporation of~~ terms and conditions does not require a
476 modification of the general permit.
477
- 478 h) The Agency ~~must~~shall notify the CAFO owner or operator and inform the public
479 that coverage has been authorized and ~~that of~~ the terms of the nutrient
480 management plan, incorporated as terms and conditions of the permit, are
481 applicable to the CAFO.
482
- 483 i) Nothing in this Section ~~will~~shall limit the Agency's authority to require an
484 individual NPDES permit ~~under pursuant to~~ Section 39(b) of the Act.
485

486 (Source: Amended at 47 Ill. Reg. _____, effective _____)
487

488 **Section 502.315 CAFO Permit Requirements**

489 NPDES permits issued to CAFOs under this Part must include:
490

- 491
- 492 a) Requirements to implement a nutrient management plan that meets ~~the provisions~~
493 ~~of~~ Subpart E.
494
- 495 b) Requirements for the permittee to create a complete copy of the records required
496 in Section 502.320; maintain the records on-site for five years from creation ~~on~~
497 ~~site~~, and make the records available to the Agency; upon request, ~~a complete copy~~
498 ~~of the records required in Section 502.320~~.
499
- 500 c) Annual reporting requirements for permitted CAFOs. The permittee must submit
501 an annual report to the Agency. The annual report must include the information
502 specified in Section 502.325.
503
- 504 d) Requirements to comply with the livestock waste discharge limitations in
505 Subparts F, G and H, if applicable.
506

507 (Source: Amended at 47 Ill. Reg. _____, effective _____)
508

509 **Section 502.320 Recordkeeping Requirements**

510 The permittee must create, maintain for five years, and make available to the Agency, upon
511 request, the following records:
512
513

- 514 a) A copy of all applicable records identified ~~underpursuant to~~ Section
515 502.510(b)(16);
516
517 b) A copy of the information required under Section 502.201;
518
519 c) Records documenting the visual inspections required under Section 502.610(c);
520
521 d) Weekly records of the depth of the manure and process wastewater in the liquid
522 livestock waste storage as indicated by the depth marker, as described in Section
523 502.610(d);
524
525 e) Records documenting any actions taken to correct deficiencies as required by
526 Sections 502.610(e) and (f). Deficiencies not corrected within 30 days must be
527 accompanied by an explanation of the factors preventing immediate correction;
528
529 f) Records of mortalities management and practices ~~the facility uses~~used by the
530 ~~facility~~ to meet the requirements of Section 502.610(g);
531
532 g) Records documenting the current design of any livestock waste storage structures,
533 including volume for solids accumulation, design treatment volume, total design
534 volume, and approximate number of days of storage capacity;
535
536 h) Records of the date, time, and estimated volume of any overflow;
537
538 i) A copy of the facility's site-specific nutrient management plan;
539
540 j) Expected crop yields for land application areas;
541
542 k) The dates livestock waste is applied to each land application area;
543
544 l) Records documenting subsurface drainage inspections conducted according to the
545 plan developed ~~underpursuant to~~ Section 502.510(b)(13);
546
547 m) Results from livestock waste and soil sampling;
548
549 n) Explanation of the basis for determining livestock waste application rates;
550
551 o) Calculations showing the total nitrogen and phosphorus to be applied to each
552 field, including sources other than livestock waste;
553
554 p) Total amount of nitrogen and phosphorus actually applied to each field, including
555 documentation of calculations for the total amount applied;
556

- 557 q) The method used to apply the livestock waste;
558
- 559 r) Date of livestock waste application equipment inspection;
560
- 561 s) Maximum number and type of animals, whether in open confinement or housed
562 under roof by the following types: beef cattle, broilers, layers, swine weighing 55
563 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy
564 heifers, veal calves, sheep and lambs, horses, turkeys, ducks, other;
565
- 566 t) All records necessary to prepare the annual report required by Section 502.325;
567
- 568 u) Total ~~acreage~~~~number of acres~~ of land application area the nutrient management
569 plan covers~~covered by the nutrient management plan~~;
570
- 571 v) The quantity of livestock waste removed when a manure storage area or waste
572 containment area is dewatered;
573
- 574 w) The following information for each day during which livestock wastes are applied
575 to land:
576
- 577 1) the amount applied to each field in either gallons, wet tons or dry tons per
578 acre;
579
- 580 2) soil water conditions at the time of application (such as dry, saturated,
581 flooded, frozen, snow-covered);
582
- 583 3) an estimate of the precipitation amount ~~of precipitation~~ 24 hours
584 before~~prior to~~, and for 24 hours after, the application;
585
- 586 4) the type of application method used (surface, surface with incorporation,
587 or injection);
588
- 589 5) the location of the field where livestock waste was applied;
590
- 591 6) Leak inspection results~~the results of leak inspection~~ of livestock waste
592 application equipment;
593
- 594 7) the name and address of off-site recipients of livestock waste, the amount
595 of waste transferred to each off-site recipient in gallons or dry tons, off-
596 site location on a topographic map, and acreage of each site the off-site
597 recipient used ~~by the off-site recipient~~;
598

- 599 8) Weather conditions, including precipitation, air temperature, wind speed,
600 wind direction and dew point, at time of land application and for 24 hours
601 ~~before, prior to~~ and for 24 hours following, the application; and
602
603 9) Records of the weather forecasts required to be maintained under~~pursuant~~
604 ~~to~~ Sections 502.620(d) and 502.630(b)(3), (4), and (5);
605
606 x) The laboratory analysis sheets reporting the analysis of the livestock waste
607 samples must~~shall~~ be kept on file at the facility for the permit's term ~~of the permit~~
608 and for 5 years after the permit expires~~expiration of the permit~~; and
609
610 y) Records documenting the test methods and sampling protocols for manure, litter
611 and process wastewater and soil analyses.
612

613 (Source: Amended at 47 Ill. Reg. _____, effective _____)
614

615 **Section 502.325 Annual Report**

- 616
617 a) The NPDES permit must specify annual reporting requirements for the CAFO.
618 The annual report must be submitted to the Agency.
619
620 b) The annual report must contain the following minimum elements:
621
622 1) Maximum number and type of animals, whether in open confinement or
623 housed under roof by the following types: beef cattle, broilers, layers,
624 swine weighing 55 pounds or more, swine weighing less than 55 pounds,
625 mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses,
626 turkeys, ducks, other;
627
628 2) Quantity of livestock waste the facility generates~~generated by the facility~~
629 in the previous 12 months (tons/gallons);
630
631 3) Quantity of livestock waste the facility transfers~~transferred~~ to another
632 person ~~by the facility~~ in the previous 12 months (in tons or gallons);
633
634 4) Total acreage~~number of acres~~ of land application area the nutrient
635 management plan covers~~covered by the nutrient management plan~~;
636
637 5) Total acreage~~number of acres~~ the CAFO used for land application of
638 livestock waste in the previous 12 months and were under the control of
639 the CAFO through ownership, lease, or consent agreement;
640

- 641 6) A statement indicating whether the current version of the CAFO's nutrient
642 management plan for land application of livestock waste was developed or
643 approved by a certified nutrient management planner and by who issued
644 the certificate~~whom the certification was issued~~;
- 645
- 646 7) Summary of all livestock waste discharges from the production area that
647 have occurred in the previous 12 months, including date, time, and
648 approximate volume;
- 649
- 650 8) A report of instances of non-compliance with the NPDES permit in the
651 previous 12 months;
- 652
- 653 9) The actual crops planted and actual yields for each field;
- 654
- 655 10) The actual nitrogen and phosphorus content of the livestock waste;
- 656
- 657 11) The results of calculations conducted in accordance with Section
658 502.515(d)(3) and (e)(3);
- 659
- 660 12) The amount of livestock waste land applied to each field during the
661 previous 12 months;
- 662
- 663 13) For any CAFO that implements a nutrient management plan that addresses
664 application rates ~~of application~~ in accordance with Section 502.515(e):
- 665
- 666 Aa) the results of any soil testing for nitrogen and phosphorus taken
667 during the preceding 12 months;
- 668
- 669 Bb) data used to calculate~~in calculations conducted~~ in accordance with
670 Section 502.515(e)(3), and
- 671
- 672 Ce) the amount of any supplemental fertilizer applied during the
673 previous 12 months; and
- 674
- 675 14) Annual review of the nutrient management practices to be implemented
676 and an update of the nutrient management plan when ~~there is a change in~~
677 the nutrient management practices change.
- 678

679 (Source: Amended at 47 Ill. Reg. _____, effective _____)

680

681 SUBPART D: APPEAL AND ENFORCEMENT

682 **Section 502.401 Appeals from Conditions in Permits**

683

684
 685 An applicant may consider any condition the Agency imposes~~imposed by the Agency~~ in a permit
 686 as the Agency refusing~~a refusal by the Agency~~ to grant a permit. An applicant or others who
 687 have been a party or participant at an Agency hearing are~~shall be~~ entitled to appeal the Agency's
 688 decision to the Board under~~pursuant to~~ Section 40 of the Act, 35 Ill. Adm. Code 105 and 35 Ill.
 689 Adm. Code: Subtitle C, Chapter I.

690
 691 (Source: Amended at 47 Ill. Reg. _____, effective _____)
 692

693 **Section 502.402 Defenses**
 694

- 695 a) Issuing or possessing~~The issuance or possession of~~ a permit does not allow the
 696 permittee to violate the Act or Board regulations and is not~~does not constitute~~ a
 697 defense to ~~such~~ a violation other than an alleged violation for construction or
 698 operation without a permit.
 699
- 700 b) Compliance with an NPDES permit must~~shall be~~ considered~~deemed~~ compliance
 701 for purposes of Sections 42, 43 and 44 of the Act (Penalties), with the Act and
 702 applicable regulations, to the extent that such compliance would be a defense to
 703 enforcement action under the CWA.
 704
- 705 c) Except for federally-imposed requirements for~~with respect to~~ NPDES permits,
 706 complying~~compliance~~ with the rules the Board promulgates~~and regulations~~
 707 promulgated by the Board under the Act will be~~shall constitute~~ a prima facie
 708 defense to any action, legal, equitable, or criminal, or an administrative
 709 proceeding for a violation of the Act, brought by any person.
 710

711 (Source: Amended at 47 Ill. Reg. _____, effective _____)
 712

713 **Section 502.403 Modification or Termination of Permits**
 714

715 The Board may, after petition and hearing in accordance with the Act and its Procedural Rules,
 716 terminate any permit or modify it in any manner which is consistent with the Act and applicable
 717 Board regulations or federal requirements upon proof of cause, including ~~but not limited to,~~ the
 718 following:

- 719 a) Violating~~Violation of~~ any condition of the permit ~~(including, but not limited to,~~
 720 ~~conditions concerning monitoring, entry and inspection);~~
 721
 722
- 723 b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant
 724 facts; or
 725
- 726 c) Change in any condition that requires either a temporary or permanent reduction

727 or elimination of the permitted discharge.

728
729 (Source: Amended at 47 Ill. Reg. _____, effective _____)

730
731 **SUBPART E: REQUIREMENTS FOR DEVELOPING AND**
732 **IMPLEMENTING NUTRIENT MANAGEMENT PLANS**

733
734 **Section 502.500 Purpose, Scope and Applicability**

735
736 The requirements in this Subpart are intended to minimize the ~~transportation~~transport of nitrogen
737 and phosphorus to waters of the United States ~~to comply with~~in compliance with the nutrient
738 management plan.

- 739
- 740 a) The requirements in this Subpart apply to CAFOs required to obtain an NPDES
741 permit. Unpermitted large CAFOs claiming an agricultural stormwater exemption
742 ~~underpursuant to~~ Section 502.102 are not required to have a nutrient management
743 plan but must comply with the requirements listed in Section 502.510(b) to
744 qualify for the exemption.
 - 745
 - 746 b) The CAFO owner or operator ~~must~~shall develop, submit and implement a site
747 specific nutrient management plan. This plan ~~must~~shall specifically identify and
748 describe practices that will be implemented to assure compliance with this
749 Subpart and the livestock waste discharge limitations and technical standards of
750 Subparts F, G, and H.

751
752 (Source: Amended at 47 Ill. Reg. _____, effective _____)

753
754 **Section 502.505 Nutrient Management Plan Information**

755
756 The nutrient management plan ~~must include~~shall contain, at a minimum, the following items:

- 757
- 758 a) Name, address, and phone number of the ~~CAFO~~owners ~~of the CAFO~~;
 - 759
 - 760 b) Name, address, and phone number of the managers or operators if different than
761 the owners;
 - 762
 - 763 c) Address, phone number, and plat location of the CAFO production area;
 - 764
 - 765 d) Name of the person who developed the nutrient management plan and a statement
766 indicating whether it was developed or approved by a certified nutrient
767 management planner and by whom the certification was issued;
 - 768
 - 769 e) Type of waste storage for the CAFO;

- 770
 771 f) Species, size and maximum number of animals at the CAFO;
 772
 773 g) Scaled aerial photos or maps depicting each field available and intended for
 774 livestock waste applications with available acreage listed and indicating
 775 residences, non-farm businesses, common places of assembly, streams, wells,
 776 waterways, lakes, ponds, rivers, drainage ditches, subsurface drainage systems,
 777 other water sources, 10-year flood plain, buffers, slope, locations of structural
 778 Best Management Practices, setbacks and areas restricted from application by this
 779 Subpart E;
 780
 781 h) For land application areas the owner or operator of the CAFO does not own or
 782 rent~~not owned or rented by the owner or operator of the CAFO~~, copies of the
 783 consent statement~~statement of consent~~ between the livestock facilities' owner or
 784 operator ~~of the livestock facilities~~ and the landowner~~owner of the land~~ where
 785 livestock waste will be applied;
 786
 787 i) Cropping schedule for each field for the past year, anticipated crops for the
 788 current year, and anticipated crops for the five year term of the permit;
 789
 790 j) Realistic crop yield goal for each crop in each field;
 791
 792 k) An estimate of the livestock waste's nutrient value ~~of the livestock waste or~~
 793 the results of livestock waste analysis results determined under~~pursuant to~~ Section
 794 502.625(c);
 795
 796 l) Livestock waste application methods;
 797
 798 m) Results of the Bray P1 or Mehlich 3 test for soil phosphorus, conducted according
 799 to~~in accordance with~~ Recommended Chemical Soil Test Procedures for the North
 800 Central Region, incorporated by reference in 35 Ill. Adm. Code 501.200, reported
 801 in pounds of elemental phosphorus per acre. If the livestock waste is to be land
 802 applied based on a single year or multi-year phosphorus application on the land
 803 application area, the following items must be provided:
 804
 805 1) An estimate of the volume of livestock waste to be disposed of annually;
 806
 807 2) The phosphorus content of the livestock waste;
 808
 809 3) The phosphorus amount needed for each crop in the planned crop rotation,
 810 expressed as pounds of P₂O₅ per acre, obtained from the Illinois Agronomy
 811 Handbook, 24th Edition, incorporated by reference at 35 Ill. Adm. Code
 812 501.200; and

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- 4) The maximum livestock waste application rate based on phosphorus for each field, determined ~~underpursuant to~~ Section 502.625(g).
- n) Calculations showing the following:
 - 1) An estimate of the volume of livestock waste to be disposed of annually;
 - 2) Nitrogen loss due to the method of storage, if applicable;
 - 3) Amount of nitrogen available for application;
 - 4) Nitrogen loss due to the method of application;
 - 5) Amount of plant-available nitrogen including mineralized first-year ~~mineralization of~~ organic nitrogen;
 - 6) Amount of nitrogen required by each crop in each field based on realistic crop yield goal;
 - 7) Nitrogen credits from previous crops, from other sources of fertilizer applied for the growing season, and from any livestock waste applications during the previous three years for each field;
 - 8) Livestock waste application rate based on nitrogen for each field; and
 - 9) Land area required for application;
- o) A listing of fields and the planned livestock waste application amounts for each field.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.510 Nutrient Management Plan Requirements

- a) Any permit issued to a CAFO must require implementing~~include a requirement to implement~~ a nutrient management plan by the date of permit coverage that includes, at a minimum, contains best management practices necessary to meet ~~the requirements of~~ this Section and the applicable livestock discharge limitations and technical standards in 35 Ill. Adm. Code 501 and 502.
- b) The nutrient management plan must specify and demonstrate:

- 856 1) The livestock waste application rate of nitrogen in a single year and
857 phosphorus in a single year or multiple years, not to exceed the single year
858 crop nitrogen and single year or multi-year phosphorus requirements for
859 realistic crop yield goals in the rotation;
860
- 861 2) Adequate land application area for livestock waste application which may
862 include:
863
- 864 A) land the CAFO owner or operator owns~~owned by the CAFO owner~~
865 ~~or operator~~;
- 866
- 867 B) land the CAFO rents or leases~~rented or leased by the CAFO~~;
- 868
- 869 C) land covered by a consent agreement between the CAFO owner or
870 operator and the property owner; or
871
- 872 D) any combination of the land described in subsection (b)(2)(A)
873 through (C);
874
- 875 3) Adequate storage of livestock waste, including procedures to ensure
876 proper operation and maintenance of the storage facilities;
877
- 878 4) Proper management of mortalities to ensure that they are not disposed of
879 in a liquid livestock waste or stormwater storage or treatment system that
880 is not specifically designed to treat animal mortalities;
881
- 882 5) That clean water is diverted, as appropriate, from the production area;
883
- 884 That~~Prevention of~~ direct contact of confined animals with waters of the
885 United States is prevented;
- 886
- 887 7) That chemicals and other contaminants handled on-site are not disposed of
888 in any livestock waste or stormwater storage or treatment system unless
889 specifically designed to treat those chemicals and other contaminants;
890
- 891 8) Appropriate site specific conservation practices to be implemented,
892 including, as appropriate, buffers or equivalent practices, to control
893 pollutant runoff ~~of pollutants~~ to waters of the United States;
894
- 895 9) Protocols for appropriate livestock waste and soil testing~~of livestock~~
896 ~~waste and soil~~. Livestock waste must be analyzed at least~~a minimum of~~
897 once annually for nitrogen and phosphorus content, and soil analyzed at
898 least~~a minimum of~~ twice every five years for phosphorus content. The

- 899 results of these analyses are to be used in determining application rates for
900 livestock wastes;
- 901
- 902 10) Protocols to land apply livestock waste ~~according to~~in accordance with
903 site-specific nutrient management practices that ensure appropriate
904 agricultural utilization of the nutrients ~~in the livestock waste~~;
- 905
- 906 11) Livestock waste ~~must~~shall not be applied within the distance from
907 residences provided in Section 502.645(a) and within the areas prohibited
908 from land application by this Part;
- 909
- 910 12) A winter time land application plan that meets ~~the requirements of~~ Section
911 502.630;
- 912
- 913 13) The plan ~~for inspecting~~for the inspection, monitoring, ~~managing and~~
914 ~~repairing~~management and repair of subsurface drainage systems at the
915 livestock waste application site. ~~Inspecting~~Inspection of subsurface
916 drainage systems ~~must~~shall include visual inspection ~~before~~prior to land
917 application to determine failures that may cause discharges and visual
918 inspection during and after land application to identify discharges. For
919 ~~purposes of~~ this subsection (b)(13), visual inspection means a person
920 ~~inspecting~~inspection by a person of the tile inlet, tile outlet and
921 unobstructed land surface to assess the structural ability of the subsurface
922 drainage system;
- 923
- 924 14) A spill prevention and control plan;
- 925
- 926 15) Annual review of the nutrient management practices to be implemented
927 and an update of the nutrient management plan when ~~there is a change in~~
928 the nutrient management practices change;
- 929
- 930 16) Specific records that will be maintained to document ~~implementing the~~
931 ~~implementation~~ and ~~managing~~management of the minimum elements
932 described in subsections (b)(2) through (15); and
- 933
- 934 17) A description of the storage provisions and schedules provided for
935 livestock waste when cropping practices, soil conditions, weather
936 conditions or other conditions prevent ~~applying the application of~~ livestock
937 waste to land or prevent other methods of livestock waste disposal.
- 938

939 (Source: Amended at 47 Ill. Reg. _____, effective _____)

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941 **Section 502.515 Terms of Nutrient Management Plan**

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Any permit issued to a CAFO must require compliance with the terms of the CAFO's site-specific nutrient management plan. These terms include:

- a) The terms of the nutrient management plan are the information, protocols, best management practices, and other conditions in the nutrient management plan ~~the Agency determines are determined by the Agency to be~~ necessary to meet ~~the requirements of~~ Sections 502.505 and 502.510.
- b) The terms of the nutrient management plan, ~~regarding with respect to~~ protocols for land application of livestock waste as required by Subpart F, must include:
 - 1) the fields available for land application;
 - 2) field-specific rates of application properly developed ~~under pursuant to~~ subsection (d) or (e) to ensure appropriate agricultural utilization of the nutrients in the livestock waste; and
 - 3) any timing limitations identified in the nutrient management plan concerning land application on the fields available for land application.
- c) The terms of the nutrient management plan must address rates of application using either the linear approach as described in subsection (d) or the narrative rate approach as described in subsection (e), unless the Agency specifies that only one of these approaches may be used.
- d) The linear approach is an approach that expresses ~~application rates rates of application~~ as pounds of nitrogen and phosphorus, according to the following specifications:
 - 1) The terms include maximum application rates from livestock waste for each year of permit coverage, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the Agency, in pounds per acre, per year, for each field to be used for land application, and ~~the certain~~ factors necessary to determine those rates.
 - 2) ~~The~~ At a minimum, the factors that are terms must include:
 - A) the outcome of assessing the field-specific ~~assessment of the~~ potential for nitrogen and phosphorus transport from each field;
 - B) the crops to be planted in each field or any other uses of a field such as pasture or fallow fields;

- 985
986 C) the realistic yield goal for each crop or use identified for each field;
987
988 D) the nitrogen and phosphorus recommendations, according to
989 Section 502.625, for each crop or use identified for each field;
990
991 E) credits for all nitrogen in the field that will be plant available;
992
993 F) consideration of multi-year phosphorus application;
994
995 G) accounting for all other additions of plant available nitrogen and
996 phosphorus to the field;
997
998 H) the form and source of livestock waste to be land-applied;
999
1000 I) the timing and method of land application; and
1001
1002 J) the methodology by which the nutrient management plan accounts
1003 for the amount of nitrogen and phosphorus in the livestock waste
1004 to be applied.
1005
1006 3) CAFOs that use this linear approach must calculate the maximum amount
1007 of livestock waste to be land applied at least once each year using the
1008 results of the most recent representative livestock waste tests for nitrogen
1009 and phosphorus taken within 12 months ~~before~~prior to the date of land
1010 application required by Section 502.635.
1011
1012 e) The narrative rate approach is an approach that expresses application rates ~~of~~
1013 ~~application~~ as a narrative rate of application that results in the amount, in tons or
1014 gallons, of livestock waste to be land applied, according to the provisions of this
1015 subsection (e).
1016
1017 1) The terms include:
1018
1019 A) maximum amounts of nitrogen and phosphorus derived from all
1020 sources of nutrients, for each crop identified in the nutrient
1021 management plan, in chemical forms determined to be acceptable
1022 to the Agency, in pounds per acre, for each field, and the~~certain~~
1023 factors necessary to determine those amounts;
1024
1025 B) the outcome of assessing the field-specific ~~assessment of the~~
1026 potential for nitrogen and phosphorus transport from each field;
1027

- 1028 C) the crops to be planted in each field or any other uses, such as
1029 pasture or fallow fields, including alternative crops identified in
1030 accordance with subsection (e)(1)(G);
1031
- 1032 D) the realistic yield goal for each crop or use identified for each field;
1033
- 1034 E) the nitrogen and phosphorus recommendations according to
1035 Section 502.625 for each crop or use identified for each field;
1036
- 1037 F) the methodology by which the nutrient management plan accounts
1038 for the following factors when calculating the amounts of livestock
1039 waste to be land applied:
1040
- 1041 i) results of soil tests conducted in accordance with protocols
1042 identified in the nutrient management plan, as required by
1043 Section 502.510(b)(9);
1044
- 1045 ii) credits for all nitrogen in the field that will be plant
1046 available;
1047
- 1048 iii) the amount of nitrogen and phosphorus in the livestock
1049 waste to be applied;
1050
- 1051 iv) consideration of multi-year phosphorus application;
1052
- 1053 v) accounting for all other additions of plant nitrogen and
1054 phosphorus to the field;
1055
- 1056 vi) the form and source of livestock waste;
1057
- 1058 vii) the timing and method of land application; and
1059
- 1060 viii) ~~volatizing~~~~volatilization of~~ nitrogen and
1061 ~~mineralizing~~~~mineralization of~~ organic nitrogen.
1062
- 1063 G) alternative crops identified in the CAFO's nutrient management
1064 plan that are not in the planned crop rotation.
1065
- 1066 i) When a CAFO includes alternative crops in its nutrient
1067 management plan, the crops must be listed by field, in
1068 addition to the crops identified in the planned crop rotation
1069 for that field, and the nutrient management plan must
1070 include realistic crop yield goals and the nitrogen and

- 1071 phosphorus recommendations according to Section 502.625
1072 for each crop.
1073
1074 ii) Maximum amounts of nitrogen and phosphorus from all
1075 sources of nutrients and the amounts of livestock waste to
1076 be applied must be determined in accordance with the
1077 methodology described in subsections (e)(1)(A) through
1078 (F).
1079
- 1080 2) For CAFOs using this narrative approach, the following projections must
1081 be included in the nutrient management plan submitted to the Agency, but
1082 are not terms of the nutrient management plan:
1083
- 1084 A) the CAFO's planned crop rotations for each field for the period of
1085 permit coverage;
 - 1086 B) the projected amount of livestock waste to be applied;
 - 1087 C) projected credits for all nitrogen in the field that will be plant
1088 available;
 - 1089 D) consideration of multi-year phosphorus application;
 - 1090 E) accounting for all other additions of plant available nitrogen and
1091 phosphorus to the field;
 - 1092 F) the predicted form, source, and method of applying~~application of~~
1093 livestock waste for each crop; and
 - 1094 G) timing of application for each field, insofar as it concerns
1095 calculating the~~the calculation of~~ rates of application.
1096
- 1097
- 1100 3) CAFOs that use this narrative rate approach must calculate maximum
1101 amounts of livestock waste to be land applied at least once each year using
1102 the methodology required in subsections (e)(1)(A) through (F) before land
1103 applying livestock waste and must rely on the following data:
1104
- 1105 A) a field-specific determination of nitrogen that will be plant
1106 available consistent with the methodology required by subsections
1107 (e)(1)(A) through (F), and for phosphorus, the results of the most
1108 recent soil test conducted in accordance with soil testing
1109 requirements the Agency approves~~approved by the Agency~~; and
1110
1111
1112
1113

1114 B) the results of most recent representative livestock waste tests for
1115 nitrogen and phosphorus taken within 12 months ~~before~~prior to the
1116 date of land application, in order to determine the amount of
1117 nitrogen and phosphorus in the livestock waste to be applied.
1118

1119 (Source: Amended at 47 Ill. Reg. _____, effective _____)
1120

1121 **Section 502.520 Changes to the Nutrient Management Plan**
1122

1123 When a CAFO owner or operator makes changes to the CAFO's nutrient management plan
1124 previously submitted to the Agency, the procedures in this Section are applicable.
1125

- 1126 a) The CAFO owner or operator must identify changes to the nutrient management
1127 plan, except that the calculated results ~~of calculations~~ made in accordance with
1128 the requirements of Sections 502.515(d)(3) and (e)(3) are not subject to ~~the~~
1129 ~~requirements of~~ this Section. These calculations may be revised without submittal
1130 to the Agency if provided the calculation revisions do not change the terms of the
1131 nutrient management plan.
1132
- 1133 b) The Agency must determine whether the changes to the nutrient management plan
1134 necessitate revision to the terms of the nutrient management plan incorporated
1135 into the permit issued to the CAFO.
1136
- 1137 1) If revision to the terms of the nutrient management plan is not necessary,
1138 the Agency must notify the CAFO owner or operator and, upon ~~that such~~
1139 notification, the CAFO may implement the revised nutrient management
1140 plan.
1141
- 1142 2) If revision to the terms of the nutrient management plan is necessary, the
1143 Agency must determine whether the changes are substantial changes as
1144 described in subsection (d).
1145
- 1146 3) If the Agency determines that the changes to the terms of the nutrient
1147 management plan are not substantial, the Agency must notify the owner or
1148 operator and inform the public of any changes to the terms of the nutrient
1149 management plan that are incorporated into the permit.
1150
- 1151 c) If the Agency determines that the changes to the terms of the nutrient
1152 management plan are substantial, the Agency must notify the public and make the
1153 proposed changes and the information the CAFO owner or operator
1154 submits~~submitted by the CAFO owner or operator~~ available for public review and
1155 comment.
1156

- 1157 1) The process and time limits for submitting public comments and hearing
1158 requests, the hearing process if a request for a hearing is granted, and the
1159 process for responding to significant comments received during the
1160 comment period will follow the procedures applicable to draft general
1161 permits found in Section 502.310(d) through (f).
1162
- 1163 2) The Agency will require the CAFO owner or operator to further revise the
1164 nutrient management plan, if necessary, ~~in order~~ to approve the revision to
1165 the terms of the nutrient management plan incorporated into the CAFO's
1166 permit.
1167
- 1168 3) Once the Agency incorporates the revised terms of the nutrient
1169 management plan into the permit, the Agency must notify the owner or
1170 operator and inform the public of the final decision concerning the
1171 revisions to the terms and conditions of the permit.
1172
- 1173 d) Substantial changes to the terms of the nutrient management plan incorporated as
1174 terms and conditions of a permit include, ~~but are not limited to~~:
- 1175
- 1176 1) ~~Adding~~ Addition of new land application areas not previously included in
1177 the CAFO's nutrient management plan; except that, if the land application
1178 area that is being added to the nutrient management plan is covered by the
1179 terms of a nutrient management plan incorporated into an existing NPDES
1180 permit in ~~compliance~~ accordance with ~~the requirements of~~ Section
1181 502.515, and the CAFO owner or operator applies livestock waste on the
1182 newly added land application area in ~~compliance~~ accordance with the
1183 existing field-specific permit terms applicable to the newly added land
1184 application area, ~~adding~~ addition of new land would be a change to the new
1185 CAFO owner's or operator's nutrient management plan but not a
1186 substantial change for ~~purposes of~~ this Section;
1187
- 1188 2) For nutrient management plans using the linear approach ~~stated~~ as set forth
1189 in Section 502.515(d), changes to the field-specific maximum annual rates
1190 of land application (pounds of nitrogen and phosphorus from livestock
1191 waste). For nutrient management plans using the narrative rate approach,
1192 changes to the maximum amounts of nitrogen and phosphorus derived
1193 from all sources for each crop;
1194
- 1195 3) ~~Adding~~ Addition of any crop or other uses not included in the terms of the
1196 CAFO's nutrient management plan and corresponding field-specific
1197 application rates ~~of application~~ expressed in accordance with Section
1198 502.515; and
1199

- 1200 4) Changes to site-specific components of the CAFO's nutrient management
1201 plan, when the changes are likely to increase the risk of nitrogen and
1202 phosphorus transport to waters of the United States.
1203

1204 (Source: Amended at 47 Ill. Reg. _____, effective _____)
1205

1206 SUBPART F: LIVESTOCK WASTE DISCHARGE LIMITATIONS
1207 AND TECHNICAL STANDARDS
1208

1209 **Section 502.600 Applicability**
1210

- 1211 a) This Subpart provides livestock waste discharge limitations and technical
1212 standards for permitted CAFOs. Permitted CAFOs must achieve the livestock
1213 waste discharge limitations and technical standards in this Subpart by the permit
1214 coverage dates ~~as of the date of permit coverage~~. This Subpart does not apply to
1215 CAFOs that stable or confine horses, sheep or ducks. CAFOs that stable or
1216 confine horses or sheep are subject to applicable production area livestock waste
1217 discharge limitations and technical standards found in Section 502.720. CAFOs
1218 that confine ducks in either a dry lot or wet lot are subject to applicable
1219 production area livestock waste discharge limitations and technical standards
1220 found in Section 502.730.
1221
- 1222 b) Unpermitted Large CAFOs claiming an agricultural stormwater exemption
1223 under ~~pursuant to~~ Section 502.102 are not required to have a nutrient management
1224 plan but must comply with the requirements listed in Section 502.510(b) to
1225 qualify for the exemption.
1226

1227 (Source: Amended at 47 Ill. Reg. _____, effective _____)
1228

1229 **Section 502.605 Livestock Waste Discharge Limitations for the Production Area for**
1230 **Permitted CAFOs**
1231

- 1232 a) Except as provided in subsections (a)(1), (a)(2) and (c), there must be no livestock
1233 waste discharge ~~of livestock wastes~~ into waters of the United States from the
1234 CAFO production area. Whenever precipitation causes an overflow of livestock
1235 wastes from the containment or storage structure, livestock wastes in the overflow
1236 may be discharged into waters of the United States if ~~provided~~:
1237
- 1238 1) The production area is designed, constructed, operated and maintained to
1239 contain all livestock wastes, including the runoff and the direct
1240 precipitation from a 25-year, 24-hour precipitation event, except that, for
1241 swine, poultry or veal, large CAFOs that are new sources must comply
1242 with Subpart H, and

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- 2) The production area is operated in accordance with the additional measures and records required by Section 502.610.
 - b) Any point source subject to this Subpart must achieve the livestock waste discharge limitations in this Section by the permit coverage date~~as of the date of the permit coverage~~.
 - c) Voluntary Alternative Performance Standards. Any CAFO subject to this Subpart may request the Agency to establish NPDES permit livestock waste discharge limitations based upon site-specific alternative technologies that achieve a quantity of pollutants discharged from the production area equal to or less than the quantity of pollutants that would be discharged under the baseline performance standards as provided by subsection (a).
 - 1) In requesting site-specific livestock waste discharge limitations to be included in the NPDES permit, the CAFO owner or operator must submit a supporting technical analysis and any other relevant information and data that would support those site-specific livestock waste discharge limitations within the time frame the Agency provides~~provided by the Agency~~.
 - 2) The supporting technical analysis must include calculating~~calculation of~~ the quantity of pollutants discharged, on a mass basis when appropriate, based on a site-specific analysis of a system designed, constructed, operated, and maintained to contain all livestock waste, including the runoff from a 25-year, 24-hour rainfall event.
 - 3) The technical analysis of the discharge of pollutants must include:
 - A) all daily inputs to the storage system, including livestock waste, direct precipitation, and runoff;
 - B) all daily outputs from the storage system, including losses due to evaporation, sludge removal, and ~~removal of~~ wastewater removal for use on cropland at the CAFO or transport off site;
 - C) a calculation determining the predicted median annual overflow volume based on a 25-year period of actual rainfall data applicable to the site;
 - D) site-specific pollutant data, including nitrogen, phosphorus, BOD₅ and total suspended solids, for the CAFO from representative

1286 sampling and ~~analyzing~~analysis of all sources of input to the
 1287 storage system, or other appropriate pollutant data; and

1288
 1289 E) predicted annual average ~~pollutant discharge~~discharge of
 1290 ~~pollutants~~, expressed, when appropriate, as a mass discharge on a
 1291 daily basis (lbs/day), and calculated considering subsections
 1292 (c)(3)(A) through (D).

1293
 1294 4) The Agency ~~may~~has the discretion to request additional information to
 1295 supplement the supporting technical analysis, including
 1296 ~~inspecting~~inspection of the CAFO.

1297
 1298 (Source: Amended at 47 Ill. Reg. _____, effective _____)
 1299

1300 **Section 502.610 Additional Measures for CAFO Production Areas**
 1301

1302 Each CAFO subject to this Subpart must implement the following:
 1303

1304 a) The CAFO owner or operator must at all times properly operate and maintain all
 1305 structural and operational aspects of the facilities, including all systems for
 1306 livestock waste treatment, storage, management, monitoring and testing.

1307
 1308 b) Livestock within a CAFO production area ~~must~~shall not come into contact with
 1309 waters of the United States.

1310
 1311 c) Visual Inspections. There must be routine visual inspections of the CAFO
 1312 production area, ~~including the.~~At a minimum, the following ~~must occur~~:

1313
 1314 1) ~~Inspecting weekly~~Weekly inspections of all stormwater diversion devices,
 1315 runoff diversion structures, and devices channeling contaminated
 1316 stormwater to the wastewater and manure storage and containment
 1317 structure;

1318
 1319 2) ~~Inspecting~~Daily inspection of water lines daily in the production areas,
 1320 including drinking water or cooling water lines; and

1321
 1322 3) ~~Inspecting~~Weekly inspections of the livestock waste storage facilities
 1323 weekly. The inspection will note the ~~level of~~ total volume of materials in
 1324 the liquid livestock waste storage facility using the depth marker required
 1325 in subsection (d).

1326
 1327 d) Depth Marker. All open surface liquid livestock waste storage facilities must have
 1328 a depth marker that clearly indicates the minimum capacity necessary to contain

- 1329 the runoff and direct precipitation of the 25-year, 24-hour rainfall event. In the
 1330 case of new sources subject to livestock waste discharge limitations established
 1331 ~~under~~pursuant to Section 502.830, all open surface livestock waste storage
 1332 structures associated with the sources must include a depth marker that clearly
 1333 indicates the minimum capacity necessary to contain the maximum runoff and
 1334 direct precipitation associated with the design storm used in sizing the storage
 1335 facility for no discharge.
 1336
- 1337 e) Corrective Actions. Any deficiencies found ~~because of~~as a result of these
 1338 inspections must be corrected as soon as possible.
 1339
- 1340 f) In addition to the requirement in subsection (e), deficiencies not corrected within
 1341 30 days must be accompanied by an explanation of the factors preventing
 1342 immediate correction.
 1343
- 1344 g) ~~Pollutant discharge~~Discharge to waters of the United States ~~of pollutants~~-from
 1345 dead livestock or dead animal disposal facilities is prohibited. Dead livestock and
 1346 water contaminated by dead livestock ~~must~~shall not be disposed of in the liquid
 1347 manure storage structures, egg wash wastewater facilities, egg processing
 1348 wastewater facilities, or areas used to hold products, by-products or raw materials
 1349 that are set aside for disposal, or contaminated stormwater facilities, other than
 1350 facilities used solely ~~to dispose~~for disposal of dead livestock.
 1351
- 1352 h) Chemicals and other contaminants ~~must~~shall not be disposed of in any livestock
 1353 waste or stormwater storage or treatment system unless specifically designed to
 1354 treat those chemicals and other contaminants.
 1355
- 1356 i) A CAFO owner or operator utilizing an earthen lagoon or other earthen manure
 1357 storage area or waste containment area ~~must~~shall inspect all berm tops, exterior
 1358 berm sides, and non-submerged interior berm sides for evidence of erosion,
 1359 burrowing animal activity, and other indications of berm degradation on a
 1360 frequency of ~~at least~~not less than once every week.
 1361
- 1362 j) The CAFO owner or operator ~~must periodically remove~~shall perform periodic
 1363 ~~removal of~~ livestock waste solids from liquid manure storage areas and the waste
 1364 containment area to maintain ~~operating~~proper operation of the storage structures
 1365 properly. Soils that are contaminated with livestock waste removed from earthen
 1366 manure storage structures ~~must~~shall be considered livestock waste.
 1367
- 1368 k) Requirements Relating to Transfer of Livestock Waste to Other Persons.
 1369

- 1370 1) ~~Before~~Prior to transferring livestock waste to other persons, CAFOs must
1371 provide the recipient of the livestock waste with the most current nutrient
1372 analysis.
1373
- 1374 2) The analysis provided must be consistent with applicable requirements to
1375 sample livestock wastes in Section 502.635(b).
1376
- 1377 3) CAFOs must retain for five years records of the date, recipient name and
1378 address, and approximate amount of livestock waste transferred to another
1379 person.
1380

1381 l) Livestock Waste Storage Requirements
1382

- 1383 1) Livestock waste storage structures at the CAFO production area must~~shall~~
1384 be designed to contain a volume equal to or greater than the total~~sum of~~
1385 ~~the~~ volumes of the following:
1386
- 1387 A) the amount of waste generated during a 180-day period of
1388 operation at design capacity;
1389
- 1390 B) the runoff volumes generated during a 180-day period, including
1391 all runoff and precipitation from lots, roofs and other surfaces
1392 where precipitation is directed into the storage structure;
1393
- 1394 C) the volume of all wash down liquid generated during the 180-day
1395 period that is directed into the manure storage structure;
1396
- 1397 D) the volume of runoff and precipitation directed to the storage
1398 structure during a 25-year, 24-hour storm event;
1399
- 1400 E) the design volatile solids loading volume, if applicable;
1401
- 1402 F) the sludge accumulation volume, if applicable; and
1403
- 1404 G) a freeboard of 2 feet, except for structures with a cover or
1405 otherwise protected from precipitation.
1406
- 1407 2) The storage volume requirements in this subsection (l) do not apply to
1408 pump stations, settling tanks, pumps, piping or other components of the
1409 CAFO production area that temporarily hold or transport waste to a
1410 storage facility meeting ~~the requirements of~~ this subsection (l).
1411

1412 (Source: Amended at 47 Ill. Reg. _____, effective _____)

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Section 502.615 Nutrient Transport Potential

- a) Field Assessment. An individual field assessment of the potential for nitrogen and phosphorus transport from the field to surface waters must be conducted and the results contained in the nutrient management plan. The following factors must be identified for each field to determine nitrogen and phosphorus transport potential to waters of the United States.
 - 1) Soil type;
 - 2) Slope;
 - 3) Conservation practices;
 - 4) Soil erodibility or potential for soil erosion;
 - 5) Soil test phosphorus;
 - 6) Tile inlet locations;
 - 7) Distance to surface waters;
 - 8) Proximity to wells;
 - 9) Location of conduits to surface water, including preferential flow paths; and
 - 10) Subsurface drainage tiles.

- b) The applicant ~~shall utilize~~ must use the field assessment information obtained in subsection (a) to determine the appropriate phosphorus-based or nitrogen-based application rate for each assessed field. The determination ~~of phosphorus-based or nitrogen-based application of livestock waste on an assessed field~~ must be consistent with subsection (c) or (d) and Sections 502.620, 502.625, 502.630, and 502.635.

- c) Nitrogen-based application of livestock waste must be conducted consistent with the following requirements:
 - 1) livestock waste is applied consistent with the setback requirements in Section 502.645;

1456 2) available soil phosphorus (median Bray P1 or Mehlich 3 in accordance
1457 with Recommended Chemical Soil Test Procedures for the North Central
1458 Region, incorporated by reference in 35 Ill. Adm. Code 501.200) is equal
1459 to or less than 300 pounds per acre;

1460
1461 3) the soil loss calculated using the Revised Universal Soil Loss Equation 2
1462 (RUSLE2) is less than the Erosion Factor T;

1463
1464 BOARD NOTE: Soil loss may be calculated using the Revised Universal
1465 Soil Loss Equation 2 (RUSLE2) software program available at
1466 http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm.
1467 Additional information may be obtained from the United States
1468 Department of Agriculture, Agricultural Research Service, 1400
1469 Independence Avenue, S.W., Washington DC 20250, (202) 720-3656.
1470 Erosion Factor T for Illinois soils is available from the United States
1471 Department of Agriculture, Natural Resources Conservation Service,
1472 Illinois Office, 2118 W. Park Court, Champaign IL 61821, (217) 353-
1473 6600. The published soil surveys for Illinois are available at
1474 <http://www.nrcs.usda.gov>.

1475
1476 4) if conduits on the field are less than 400 feet from surface waters, the
1477 setback requirements in Section 502.645(b)(2) do not apply. Instead the
1478 following setbacks apply:

1479
1480 A) Livestock waste application ~~must~~~~shall~~ be conducted no closer than:

1481
1482 i) 150 feet from a tile inlet, agricultural well head, sinkhole,
1483 or edge of a ditch that has no vegetative buffer; or

1484
1485 ii) 50 feet from a tile inlet, agricultural well head, sinkhole, or
1486 edge of a ditch that has a 50 foot vegetative buffer or 50
1487 feet from the center of a grass waterway;

1488
1489 B) These setbacks do not apply if the CAFO ~~demonstrates~~~~is able to~~
1490 ~~demonstrate~~ to the Agency that a setback or buffer is not necessary
1491 because ~~implementing~~~~implementation of~~ alternative conservation
1492 practices (including, ~~but not limited to~~, injection and incorporation)
1493 or field-specific conditions will provide pollutant reductions
1494 equivalent to or better than the reductions that would be achieved
1495 by the 150-foot setback under subsection (c)(4)(A)(i) or the 50-
1496 foot setback under subsection (c)(4)(A)(ii);

1497

- 1498 5) if conduits on the field are more than 400 feet from surface waters, the
1499 setback requirements in subsection (c)(4) do not apply;
1500
- 1501 6) where surface waters are on the assessed field or within 200 feet of the
1502 field, the livestock waste applied to the field ~~must~~ shall be injected or
1503 incorporated within 24 hours after the application or equivalent
1504 conservation practices must be installed and maintained on the field
1505 ~~under~~ pursuant to USDA-NRCS practice standards; and
1506
- 1507 7) if nitrogen-based application cannot be conducted in accordance with this
1508 subsection (c), then phosphorus-based application must be conducted as
1509 specified in subsection (d).
1510
- 1511 d) Phosphorus-based application of livestock waste must be conducted consistent
1512 with the following requirements:
1513
- 1514 1) livestock waste must be applied consistent with the setback requirements
1515 in Section 502.645;
1516
- 1517 2) the livestock waste application rate must not exceed the annual agronomic
1518 nitrogen demand of the next crop grown as provided in Section
1519 502.625(a);
1520
- 1521 3) if the soil contains greater than 50 pounds of available soil phosphorus per
1522 acre (median Bray P1 or Mehlich 3 in accordance with Recommended
1523 Chemical Soil Test Procedures for the North Central Region, incorporated
1524 by reference in 35 Ill. Adm. Code 501.200), phosphorus-based application
1525 rates must maintain or lower the soil test phosphorus during the nutrient
1526 management plan period;
1527
- 1528 4) if the soil contains greater than 300 pounds of available soil phosphorus
1529 per acre (median Bray P1 or Mehlich 3 in accordance with Recommended
1530 Chemical Soil Test Procedures for the North Central Region, incorporated
1531 by reference in 35 Ill. Adm. Code 501.200), the amount of phosphorus
1532 applied in the livestock waste must not exceed the amount of phosphorus
1533 ~~removed by the~~ next year's crop grown and harvested ~~removes~~; and
1534
- 1535 5) livestock waste ~~must~~ shall not be applied to fields with available soil
1536 phosphorus (median Bray P1 or Mehlich 3 in accordance with
1537 Recommended Chemical Soil Test Procedures for the North Central
1538 Region, incorporated by reference in 35 Ill. Adm. Code 501.200) greater
1539 than 400 pounds per acre.
1540

1541 (Source: Amended at 47 Ill. Reg. _____, effective _____)

1542

1543 **Section 502.620 Protocols to Land Apply Livestock Waste**

1544

1545

a) Livestock wastes ~~must~~shall not be applied to waters of the United States. Livestock waste application ~~must~~shall not cause runoff to waters of the United States during non-precipitation events. Livestock waste application ~~must~~shall not occur on land that is saturated at the time of application. Livestock waste ~~must~~shall not be applied onto land with ponded water.

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b) Discharge of livestock waste to waters of the United States or off-site during dry weather through subsurface drains is prohibited.

1552

1553

1554

c) Livestock waste ~~must~~shall not be applied during precipitation when runoff of livestock waste will be produced.

1555

1556

1557

d) Surface land application of livestock waste ~~must~~shall not occur within 24 hours preceding a precipitation forecast of 0.5 inches or more ~~of precipitation~~ in a 24-hour period as measured in liquid form. The CAFO owner or operator ~~must~~shall use one of the following two methods for determining whether these conditions exist and ~~must~~shall maintain a record of the forecast from the source used.

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1559

1560

1561

1562

1) A prediction of a 60 percent or greater chance of 0.5 inches or more of precipitation in a 24-hour period as measured in liquid form, obtained from the National Weather Service's Meteorological Development Laboratory, Statistical Modeling Branch, 1325 East West Highway, Silver Spring MD 20910 for the location nearest to the land application area; or

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BOARD NOTE: The prediction in subsection (d)(1) may be obtained from the National Weather Service at

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1570

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http://www.wpc.ncep.noaa.gov/pqpf.conus_hpc_pqph.php

1572

~~<http://www.nws.noaa.gov/mdl/forecast/graphics/MAV/>~~

1573

1574

2) A prediction of 0.5 inches or more of precipitation in a 24 hour period as measured in liquid form and identified as higher than Quantitative Precipitation Forecast (QPF) category 3, obtained from the National Weather Service's Meteorological Development Laboratory, Statistical Modeling Branch, 1325 East West Highway, Silver Spring MD 20910 for the land application area location.

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BOARD NOTE: The prediction in subsection (d)(2) may be obtained from the National Weather Service at

1581

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<https://www.wpc.ncep.noaa.gov/qpf.qpfz.shtml>
<http://www.nws.noaa.gov/mdl/synop/products/bullform.mex.htm>.

- 1583
1584
1585
1586 e) Determination of soil loss must be made for each field using Revised Universal
1587 Soil Loss Equation 2 (RUSLE2).
1588

1589 BOARD NOTE: Soil loss may be calculated using the RUSLE2 software
1590 program available at [http://fargo.nserl.purdue.edu/rusle2_dataweb/](http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm)
1591 [RUSLE2_Index.htm](http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm). Additional information may be obtained from the United
1592 States Department of Agriculture, Agricultural Research Service, 1400
1593 Independence Avenue, S.W., Washington DC 20250, (202) 720-3656.
1594

- 1595 f) Surface land application may be used when the land slope is no greater than 5%
1596 or when the yearly average soil loss calculated using RUSLE2 [or the most recent](#)
1597 [USDA/NRCS soil erosion prediction tool](#) is equal to or less than 5 tons per acre
1598 per year or Erosion Factor T, whichever is less, regardless of slope. Injection or
1599 incorporation within 24 hours ~~must~~ shall be used when the land slope is greater
1600 than 5% and the yearly average soil loss calculated using RUSLE2 is greater than
1601 5 tons per acre per year or Erosion Factor T, whichever is less. Fields with
1602 varying or steep slopes must be divided into separate areas for calculating yearly
1603 average soil loss using RUSLE2 [or the most recent USDA/NRCS soil erosion](#)
1604 [prediction tool](#) to comply with this subsection.
1605

1606 BOARD NOTE: Soil loss may be calculated using the RUSLE2 [or the recent](#)
1607 [USDA/NRCS soil erosion prediction tool](#) software program available at
1608 http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm. Additional
1609 information on RUSLE2 may be obtained from the United States Department of
1610 Agriculture, Agricultural Research Services, 1400 Independence Avenue, S.W.,
1611 Washington DC 20250, (202) 720-3656. Erosion Factor T for Illinois soils is
1612 available from the United States Department of Agriculture, Natural Resources
1613 Conservation Service, Illinois Office, 2118 W. Park Court, Champaign IL 61821,
1614 (217) 353-6600. The published soil surveys for Illinois are available at
1615 <http://www.nrcs.usda.gov>.
1616

- 1617 g) Land application of livestock waste is prohibited on slopes greater than 15%.
1618

- 1619 h) Liquid livestock waste ~~must~~ shall not be applied to land with less than 36 inches of
1620 soil covering fractured bedrock, sand or gravel. The depth of soil cover may be
1621 determined by using NRCS soil surveys, Illinois State Geological Survey well
1622 logs, or soil probes.
1623

- 1624 i) Livestock waste ~~must~~ shall not be applied to bedrock outcrops.
1625

- 1626 j) Livestock waste ~~must~~shall be applied at no greater than 50 percent of the
1627 agronomic nitrogen rate determined ~~under~~pursuant to Section 502.625 when there
1628 is less than 60 inches of unconsolidated material over bedrock. The depth of
1629 unconsolidated material may be determined by using NRCS surveys, Illinois State
1630 Geological Survey well logs, or soil probes.
- 1631
- 1632 k) Livestock waste ~~must~~shall be applied at no greater than 50 percent of the
1633 agronomic nitrogen rate determined ~~under~~pursuant to Section 502.625 when the
1634 minimum soil depth to seasonal high water table is less than or equal to 2 feet.
1635 The depth of soil to seasonal high water table may be determined by using
1636 information from NRCS soil surveys, soil probes, and water table levels from
1637 Illinois State Geological Survey well log data or well points.
- 1638
- 1639 l) Livestock waste ~~must~~shall not be applied at rates that exceed the infiltration rates
1640 of the soil.

1641
1642 (Source: Amended at 47 Ill. Reg. _____, effective _____)

1643
1644 **Section 502.625 Determination of Livestock Waste Application Rates**

- 1645
- 1646 a) Livestock waste application ~~must~~shall not exceed the agronomic nitrogen rate,
1647 which is defined as the annual application rate of nitrogen that can be expected to
1648 be required for a realistic crop yield goal. Multi-year phosphorus application is
1649 allowed when the application is specified in a nutrient management plan and
1650 meets the requirements in Section 502.615. Any ~~such~~ application must be
1651 consistent with nutrient management plan requirements. The agronomic rate must
1652 be determined in a manner consistent with this Section and Section 502.615.
- 1653
- 1654 b) Livestock Waste Volumes. The estimate of the annual volume of available
1655 livestock waste for application ~~must~~shall be obtained by multiplying the number
1656 of animals constituting the maximum design capacity of the facility by the
1657 appropriate amount of waste ~~the animals generate~~generated by the animals. For
1658 ~~purposes of~~ this Section, "maximum design capacity" means the maximum
1659 number of animals that can be housed at any time for a minimum of 45 days at a
1660 CAFO. The following sources may be used to obtain the amount of waste
1661 generated:
- 1662
- 1663 1) Livestock Waste Facilities Handbook, Third Edition, Table 2-1,
1664 incorporated by reference at 35 Ill. Adm. Code 501.200(a);
- 1665
- 1666 2) 35 Ill. Adm. Code 560.Table 1;
- 1667

- 1668 3) Manure Characteristics, 2nd ed., 2004 (MWPS-18 Section 1), MidWest
 1669 Plan Service, incorporated by reference at 35 Ill. Adm. Code 501.200(a);
 1670 and
 1671
- 1672 4) NRCS Agricultural Waste Management Field Handbook Chapter 4,
 1673 incorporated by reference at 35 Ill. Adm. Code 501.200(a).
 1674
- 1675 c) Nutrient Value of Livestock Waste. For new livestock facilities that have not
 1676 generated livestock waste, the owner or operator must prepare a plan based on an
 1677 average of the minimum and maximum numbers in the table values derived from
 1678 Livestock Waste Facilities Handbook, Third Edition, Table 2-1, 10-6, or 10-7, or
 1679 Manure Characteristics, incorporated by reference at 35 Ill. Adm. Code 501.200,
 1680 or 35 Ill. Adm. Code 560. Table 1 or Table 2. If "as produced" or "as excreted"
 1681 nutrient values are used, the nitrogen value ~~must~~~~shall~~ be adjusted to account for
 1682 losses due to the type of storage system ~~utilized~~ using an average of the ranges in
 1683 Livestock Waste Facilities Handbook, Third Edition, Table 10-1. Other sources of
 1684 nutrient values may be used if approved by the Agency. Owners or operators of
 1685 existing livestock facilities, must prepare the plan based on representative
 1686 sampling and analysis of the livestock waste ~~the CAFOs generate~~~~generated by the~~
 1687 ~~CAFOs~~ in accordance with Section 502.635(b).
 1688
- 1689 d) Adjustments to Nitrogen Availability. Adjustments ~~must~~~~shall~~ be made to
 1690 nitrogen availability to account for the following:
 1691
- 1692 1) Nitrogen loss from livestock waste due to method of application, based on
 1693 an average of the ranges in Livestock Waste Facilities Handbook, Third
 1694 Edition, Table 10-2; and
 1695
- 1696 2) The first-year mineralization of organic nitrogen into a plant available
 1697 form, as obtained from Livestock Waste Facilities Handbook, Third
 1698 Edition, Table 10-5.
 1699
- 1700 e) Realistic Crop Yield Goal
 1701
- 1702 1) The realistic crop yield goal ~~must~~~~shall~~ be determined for each field where
 1703 the livestock waste is to be land applied. The realistic crop yield goal
 1704 ~~must~~~~shall~~ be determined using an average yield over a five-year period
 1705 from the field where livestock waste is to be land applied. The source of
 1706 data ~~used~~~~to be utilized~~ to determine the realistic crop yield goal is
 1707 provided in subsection (e)(2).
 1708
- 1709 2) Whenever five years of data is available for the field where livestock
 1710 waste is to be land applied, proven yields ~~must~~~~shall~~ be used in calculating
 1711 the realistic crop yield, unless there is an agronomic basis for predicting a

1712 different realistic crop yield goal. The owner or operator ~~must~~shall
1713 indicate the method used to determine the proven yield. Data from years
1714 with crop disasters may be discarded.

1715
1716 A) If five years of proven yield data is not available for the field
1717 where the livestock waste is to be land applied, or if an agronomic
1718 basis exists for predicting a different realistic crop yield goal, the
1719 owner or operator may calculate the realistic crop yield goal using
1720 crop insurance yields or Farm Service Agency USDA yields. If
1721 either of these sources is used, a copy of the insurance or assigned
1722 crop yields ~~must~~shall be included with the nutrient management
1723 plan.

1724
1725 B) If data is not available on proven yields, crop insurance yields or
1726 Farm Service Agency yields, or if an agronomic basis exists for
1727 predicting a different realistic crop yield goal, soils based yield
1728 data from the University of Illinois "Average Crop, Pasture, and
1729 Forestry Productivity Ratings for Illinois Soils; Bulletin No. 810"
1730 (Bulletin 810) or "Optimum Crop Productivity Ratings for Illinois
1731 Soils; Bulletin 811" (Bulletin 811), incorporated by reference at 35
1732 Ill. Adm. Code 501.200, ~~the owner or operator must use~~shall be
1733 ~~used by the owner or operator~~ to calculate the realistic crop yield
1734 goal ~~under~~pursuant to subsection (e)(1).

1735
1736 i) If Bulletin 810 or 811 is used to calculate the realistic crop
1737 yield goal, a soil map of the land application areas
1738 ~~must~~shall be included in the nutrient management plan.

1739
1740 ii) If Bulletin 810 or 811 is used, the realistic crop yield goal
1741 ~~must~~shall be determined by a weighted average of the soil
1742 interpretation yield estimates for the fields where livestock
1743 waste is to be land applied.

1744
1745 iii) If Bulletin 811 is used, the owner or operator ~~must~~shall
1746 demonstrate in the nutrient management plan that the
1747 operational management and field conditions of the facility
1748 and land application areas meet the requirements for
1749 optimum conditions as provided in Bulletin 811.

1750
1751 f) Nitrogen Credits

1752
1753 1) ~~The CAFO owner or operator must calculate nitrogen~~Nitrogen credits
1754 ~~shall be calculated by the CAFO owner or operator, under~~pursuant to

1755 Section 502.505(n)(7), for nitrogen-producing crops grown the previous
 1756 year, for other sources of nitrogen applied for the growing season, and for
 1757 mineralized organic nitrogen in livestock waste applied during the
 1758 previous three years.

1759
 1760 2) ~~The CAFO owner or operator must calculate nitrogen~~Nitrogen credits
 1761 ~~shall be calculated by the CAFO owner or operator~~ for the mineralized
 1762 organic nitrogen in livestock waste applied during the previous three years
 1763 at the rate of 50%, 25%, and 12.5%, respectively, of that mineralized
 1764 during the first year.

1765
 1766 g) Phosphorus. The CAFO owner or operator must develop or amend the plan ~~shall~~
 1767 ~~be developed or amended by the CAFO owner or operator~~ to determine the
 1768 maximum livestock waste application rate for each field. The plan for that field
 1769 ~~must~~shall contain the following:

1770
 1771 1) The phosphorus content of the livestock waste ~~must~~shall be determined in
 1772 accordance with subsection (c);

1773
 1774 2) The realistic crop yield goal of each crop in the field, obtained
 1775 ~~under~~pursuant to subsection (e)(1);

1776
 1777 3) The phosphorus amount needed for each crop in the planned crop rotation,
 1778 expressed as P₂O₅, obtained from the Illinois Agronomy Handbook, 24th
 1779 Edition, incorporated by reference at 35 Ill. Adm. Code 501.200.
 1780 ~~Determining this~~The determination of this phosphorus amount ~~must~~shall
 1781 be based on the realistic crop yield goal for each planned crop and the soil
 1782 test for available phosphorus (Bray P1 or Mehlich 3 conducted according
 1783 ~~to~~in accordance with Recommended Chemical Soil Test Procedures for
 1784 the North Central Region, incorporated by reference in 35 Ill. Adm. Code
 1785 501.200);

1786
 1787 4) The phosphorus carryover from previous years' application of phosphorus
 1788 or livestock waste;

1789
 1790 5) Soil test phosphorus results for that field; and

1791
 1792 6) The maximum livestock waste application rate, consistent with nitrogen-
 1793 based or phosphorus-based applications allowed under Section 502.615.

1794
 1795 h) Nitrogen and phosphorus fertilization rates for the realistic crop yield goal may be
 1796 obtained from the Illinois Agronomy Handbook, 24th Edition, incorporated by
 1797 reference at 35 Ill. Adm. Code 501.200, or 35 Ill. Adm. Code 560.Appendix A.

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(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.630 Protocols to Land Apply Livestock Waste During Winter

- a) Winter Application Prohibition. Surface land application of livestock waste on frozen, ice-covered, or snow-covered ground is prohibited except as specified in subsection (a)(1).
 - 1) ~~Despite~~Notwithstanding the winter application prohibition in subsection (a), surface land application of livestock waste on frozen, ice-covered or snow-covered ground is allowed if all of the following conditions are met:
 - A) No practical alternative measures are available to handle the livestock waste within storage facilities or to dispose of the livestock waste at other sites. Examples of practical alternative measures may include, ~~but are not limited to,~~ the transfer of waste to another waste handling facility or sewage treatment plant, rental or acquisition of a storage tank, reduction of herd size or depopulation, and protection of the facility from direct precipitation and clean stormwater runoff;
 - B) Liquid livestock waste cannot be injected or incorporated within 24 hours after application due to soil conditions;
 - C) ~~Before~~Prior to December 1, the owner or operator has taken steps to provide 120 days of available capacity for manure storage areas~~storage capacity of manure storage areas~~. Examples of steps that could be taken may include, but are not limited to, land application of livestock waste, transfer of waste to another party, protecting~~protection of~~ waste storage structures from direct precipitation and stormwater runoff, and depopulating facilities to reduce the amount of waste generated;
 - D) The owner or operator has complied with subsection (a)(1)(C) and yet the storage volume available on December 1 of that winter season is less than 120 days of storage;
 - E) The owner or operator has notified the Agency in writing on December 1 of that winter season that the CAFO has less than 120 days storage available; and

- 1840 F) The discharge of livestock waste from the structure to the surface
1841 waters is expected to occur due to shortage in storage capacity.
1842
- 1843 2) The storage volume calculation in subsection (a)(1)(C) must include
1844 runoff and direct precipitation plus the volume of livestock excreta, wash
1845 water and other process wastewater generated and expected to enter the
1846 storage structure during ~~the period of~~ December 1 to April 1. Runoff
1847 volume calculations must meet the following requirements:
1848
- 1849 A) Runoff calculations must be based on the runoff transferred into
1850 the storage structure under frozen ground conditions;
1851
- 1852 B) Direct precipitation that will reduce the available storage volume
1853 must be based on normal precipitation for the December 1 to April
1854 1 period for the nearest weather station and, for facilities exposed
1855 to precipitation, the 25-year, 24-hour storm event volume or the
1856 design storm event volume determined under Subpart H for swine,
1857 poultry and veal large CAFOs that are new sources. ~~Normal~~The
1858 ~~determination of normal~~ precipitation determinations must~~shall~~ be
1859 based on National Weather Service or State Water Survey
1860 Records;
1861
- 1862 BOARD NOTE: The following sources may be used to determine
1863 normal precipitation:
1864
- 1865 [http://www.isws.illinois.edu/atmos/statecli/newnormals/
1866 newnormals.htm](http://www.isws.illinois.edu/atmos/statecli/newnormals/newnormals.htm) or [http://cdo.ncdc.noaa.gov/cgi-
1867 bin/climatenormals/climatenormals.pl](http://cdo.ncdc.noaa.gov/cgi-bin/climatenormals/climatenormals.pl).
1868
- 1869 C) The owner or operator must~~shall~~ keep a record of the precipitation
1870 value used and the source from which the value was obtained; and
1871
- 1872 D) Calculations must allow for a freeboard of two feet.
1873
- 1874 3) ~~If~~In the event winter land application is necessary, it must be conducted
1875 under~~pursuant to~~ a winter application plan described in subsection (b) and
1876 according to the conditions of subsection (c).
1877
- 1878 b) Winter Application Plan
1879 To~~In order to~~ conduct surface land application on frozen, ice covered, or snow
1880 covered ground, ~~the requirements of~~ this subsection (b) must be met.
1881
- 1882 1) No land application may occur within ¼ mile of a non-farm residence.

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- 2) No discharge may occur during land application of livestock waste.
- 3) Surface land application on frozen ground ~~must~~shall not occur within 24-hours preceding a precipitation forecast of 0.25 inches or more ~~of precipitation~~ in a 24-hour period as measured in liquid form. The CAFO owner or operator ~~must~~shall use one of the following two methods for determining whether these conditions exist and ~~must~~shall maintain a record of the forecast from the source used.

- A) A prediction of a 60 percent or greater chance of 0.25 inches or more of precipitation in a 24-hour period as measured in liquid form, obtained from the National Weather Service's Meteorological Development Laboratory, Statistical Modeling Branch 1325 East West Highway, Silver Spring MD 20910, for the location nearest to the land application area; or

BOARD NOTE: The prediction in subsection (b)(3)(A) may be obtained from the National Weather Service at http://www.wpc.ncep.noaa.gov/pqpf/conus_hpc_pqpf.php ~~<http://www.nws.noaa.gov/mdl/forecast/graphics/MAV/>~~.

- B) A precipitation prediction of 0.25 inches or more ~~of precipitation~~ in a 24-hour period as measured in liquid form and identified as higher than QPF category 2 obtained from the National Weather Service Meteorological Development Laboratory, Statistical Modeling Branch, 1325 East West Highway, Silver Spring MD 20910, for the land application area location.

BOARD NOTE: The prediction in subsection (b)(3)(B) may be obtained from the National Weather Service at http://www.wpc.ncep.noaa.gov/pqpf/conus_hpc_pqpf.php ~~<http://www.nws.noaa.gov/mdl/synop/products/bullform.mex.htm>~~.

- 4) Surface land application of livestock waste on ice covered or snow covered land ~~must~~shall not occur within 24 hours preceding a precipitation forecast of 0.1 inches or more ~~of precipitation~~ in a 24 hour period as measured in liquid form. The CAFO owner or operator ~~must~~shall use one of the two methods provided below for determining whether or not these conditions exist and ~~must~~shall maintain a record of the forecast from the source used.

1925 A) A precipitation prediction of a 60 percent or greater chance of 0.1
1926 inches or more ~~of precipitation~~ in a 24-hour period as measured in
1927 liquid form obtained from the National Weather Service's
1928 Meteorological Development Laboratory, Statistical Modeling
1929 Branch, 1325 East West Highway, Silver Spring MD 20910 for
1930 the location nearest to the land application area; or

1931
1932 BOARD NOTE: The prediction in subsection (b)(4)(A) may be
1933 obtained from the National Weather Service at
1934 http://www.wpc.ncep.noaa.gov/pqpf/conus_hpc_pqpf.php
1935 ~~<http://www.nws.noaa.gov/mdl/forecast/graphics/MAV/>~~.

1936
1937 B) A precipitation prediction of 0.1 inches or more ~~of precipitation~~ in
1938 a 24-hour period as measured in liquid form and identified as
1939 higher than QPF category 1 obtained from the National Weather
1940 Service's Meteorological Development Laboratory, Statistical
1941 Modeling Branch, 1325 East West Highway, Silver Spring MD
1942 20910 for the land application area location.

1943
1944 BOARD NOTE: The prediction in subsection (b)(4)(B) may be
1945 obtained from the National Weather Service at
1946 <http://www.nws.noaa.gov/mdl/synop/products/bullform.mex.htm>.

1947
1948 5) If the land application of livestock waste is on ice covered or snow
1949 covered land, surface land application ~~must~~shall not occur when the
1950 predicted high temperature exceeds 32 degrees F on the day of land
1951 application or on any of the 7 days following land application as predicted
1952 by the National Weather Service's Meteorological Development
1953 Laboratory, Statistical Modeling Branch, 1325 East West Highway, Silver
1954 Spring MD 20910 for the location nearest to the land application area.
1955 The owner or operator ~~must~~shall maintain a record of the forecast from the
1956 source used.

1957
1958 BOARD NOTE: The predicted high temperature in subsection (b)(5) may
1959 be obtained from the National Weather Service at
1960 <https://www.weather.gov>
1961 ~~<http://www.nws.noaa.gov/mdl/forecast/graphics/MEX/index.html> or~~
1962 ~~<http://www.nws.noaa.gov/mdl/synop/products/bullform.mex.htm>~~.

1963
1964 6) If the surface land application of livestock waste is on ice covered or snow
1965 covered land, the CAFO owner or operator ~~must~~shall visually monitor for
1966 runoff from the site. The CAFO owner or operator daily must monitor
1967 each ice covered or snow covered field where land application has been

- 1968 conducted when the ambient temperature is 32 degrees F or greater
1969 following winter land application until all the ice or snow melts from the
1970 land application area.
1971
- 1972 7) If the surface land application of livestock waste is on ice covered or snow
1973 covered land and a runoff from the land application area occurs, the
1974 CAFO owner or operator ~~must~~shall report any discharge of livestock
1975 waste within 24 hours after the discovery of the discharge as follows:
1976
- 1977 A) The report ~~must~~shall be made to the Agency through the Illinois
1978 Emergency Management Agency by calling 1-800-782-7860 or 1-
1979 217-782-7860;
1980
- 1981 B) Within 5 days after this telephone report, the CAFO owner or
1982 operator ~~must~~shall file a written report with the Agency that
1983 includes the name and telephone number of the person filing the
1984 report, ~~the discharge location,~~location of the discharge, an
1985 ~~estimated~~estimate of the quantity of the discharge, ~~the discharge's~~
1986 time and duration of the discharge, actions taken in response to the
1987 discharge, and observations ~~on the discharge's condition~~of the
1988 ~~condition of the discharge~~ with regards to turbidity, color, foaming,
1989 floatable solids and other deleterious conditions ~~of the runoff~~ for
1990 each day of ~~the~~each runoff event until the ice or snow melts off the
1991 site.
1992
- 1993 c) Availability of Individual Fields for Winter Application
1994 If livestock waste is to be surface applied on frozen ground, ice covered land or
1995 snow covered land, the land application may only be conducted on land that meets
1996 the following requirements:
1997
- 1998 1) Adequate erosion and runoff control practices exist, including, ~~but not~~
1999 ~~limited to,~~vegetative fence rows around the site, contour farming,
2000 terracing, catchment basins and buffer areas that intercept surface runoff
2001 from the site;
2002
- 2003 2) A crop stubble, crop residue or vegetative buffer of 200 feet exists
2004 between the land application area and surface waters, waterways, open tile
2005 line intake structures, sinkholes, agricultural wellheads, or other conduits
2006 to surface water and the vegetative buffer zone is down gradient of the
2007 livestock waste application area;
2008
- 2009 3) Application on land with slopes greater than 5% is prohibited;
2010

2011 4) Application may only occur on sites that have field specific soil erosion
2012 loss calculated using Revised Universal Soil Loss Equation less than
2013 Erosion Factor T, and have a median Bray P1 or Mehlich 3 soil level of
2014 phosphorus, in accordance with Recommended Chemical Soil Test
2015 Procedures for the North Central Region, incorporated by reference in 35
2016 Ill. Adm. Code 501.200, equal to or less than 300 pounds per acre;

2017
2018 BOARD NOTE: Soil loss may be calculated using the Revised Universal
2019 Soil Loss Equation 2 (RUSLE2) software program [or the most recent](#)
2020 [USDA/NRCS soil erosion prediction tool](#) available at
2021 http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm.
2022 Additional information may be obtained from the United States
2023 Department of Agriculture, Agricultural Research Service, 1400
2024 Independence Avenue, S.W., Washington DC 20250, (202) 720-3656.
2025 Erosion Factor T for Illinois soils is available from the United States
2026 Department of Agriculture, Natural Resources Conservation Service,
2027 Illinois Office, 2118 W. Park Court, Champaign IL 61821, (217) 353-
2028 6600. The published soil surveys for Illinois are available at
2029 <http://www.nrcs.usda.gov>.

2030
2031 5) Surface application may only occur if the setbacks equal three times the
2032 otherwise applicable setbacks by Sections 502.615 and 502.645 if the
2033 slope of the field is between 2 percent and 5 percent. This setback
2034 requirement does not include the quarter mile distance from residences
2035 contained in Section 502.645(a); and

2036
2037 6) For fields with slopes of less than 2 percent, the surface application may
2038 only occur if the setbacks equal two times the otherwise applicable
2039 setbacks required by Sections 502.615 and 502.645. This setback
2040 requirement does not include the quarter mile distance from residences
2041 contained in Section 502.645(a).

2042
2043 (Source: Amended at 47 Ill. Reg. _____, effective _____)

2044
2045 **Section 502.635 Manure and Soil Sampling and Analysis**

2046
2047 a) Soil Phosphorus Sampling. Soil samples ~~must~~**shall** be obtained and analyzed
2048 from each field of the land application area where applications are planned.
2049 Fields where livestock waste is applied ~~must~~**shall** be sampled twice for each field
2050 during the ~~permit's~~**term** ~~of the permit~~. Soil testing must be conducted as follows:

2051
2052 1) Soil sampling for phosphorus ~~must~~**shall** be in accordance with the
2053 sampling protocols in Chapter 8 of the Illinois Agronomy Handbook, 24th

2054 Edition, incorporated by reference at 35 Ill. Adm. Code 501.200.
2055 Laboratory analysis for soil phosphorus (Bray P1 or Mehlich 3) ~~must~~
2056 be in accordance with Recommended Chemical Soil Test Procedures for
2057 the North Central Region, incorporated by reference at 35 Ill. Adm. Code
2058 501.200;

2059
2060 2) Soil samples ~~must~~
2061 rotation so that results are comparable year to year; and
2062

2063 3) The two required soil samples for each field must be taken at least one
2064 year apart.
2065

2066 b) Manure Sampling.

2067
2068 1) The CAFO owner or operator ~~must~~
2069 analysis of the nutrient content representative of the livestock waste to be
2070 land applied as provided within the nutrient management plan. Livestock
2071 waste ~~must~~
2072 subsamples ~~must~~
2073 representative sample is obtained for analysis. Results of a sample taken
2074 during waste application the previous year can be used for plan
2075 preparation unless there has been a change in the waste management
2076 practices during the year. The analytical results of livestock waste
2077 samples ~~must~~ be used for ~~calculating~~
2078 rate ~~the NPDES permit allows~~
2079

2080 2) The laboratory analysis of the livestock waste sample ~~must~~
2081 total kjeldahl nitrogen, ammonia or ammonium nitrogen, total phosphorus,
2082 total potassium, and percent total solids. The nutrient results ~~must~~
2083 be reported on the laboratory analysis sheet on a lb/ton or mg/kg dry weight
2084 basis or lb/1000 gal or mg/L wet weight basis. The results of these
2085 analyses are to be used in determining application rates for livestock
2086 waste.
2087

2088 (Source: Amended at 47 Ill. Reg. _____, effective _____)
2089

2090 **Section 502.640 Inspection of Land Application Equipment for Leaks**
2091

2092 a) For all permitted CAFOs that land apply livestock waste, the CAFO owner or
2093 operator must periodically inspect equipment used for land application of
2094 livestock waste for leaks or problems that result in improper operation.
2095

- 2096 b) The CAFO owner or operator must ensure that the land application equipment is
2097 properly calibrated on a routine basis for ~~applying application of~~ livestock waste
2098 ~~on a routine basis~~.
- 2099
- 2100 c) Calibration procedures and schedules ~~must~~shall be described for all equipment in
2101 the CAFO's nutrient management plan.
- 2102

2103 (Source: Amended at 47 Ill. Reg. _____, effective _____)

2104

2105 **Section 502.645 Land Application Setback Requirements**

2106

- 2107 a) Distance from Residences
- 2108 Livestock waste ~~must~~shall not be land applied within ¼ mile of any residence not
2109 part of the CAFO, unless it is injected or incorporated on the day of application.
- 2110
- 2111 b) Setbacks from Waters
- 2112
- 2113 1) Livestock waste ~~must~~shall not be land applied within 200 feet of surface
2114 water, unless the water is upgrade or there is adequate diking, which
2115 includes, ~~but is not limited to~~, diking that prevents runoff from the land
2116 application from entering surface waters that are within 200 feet of the
2117 land application area.
- 2118
- 2119 2) Livestock waste ~~must~~shall not be land applied within 100 feet of down
2120 gradient open subsurface drainage intakes, agricultural drainage wells,
2121 sinkholes, grassed waterways or other conduits to surface waters, unless a
2122 35 foot vegetative buffer exists between the land application area and the
2123 grassed waterways, open subsurface drainage intakes, agricultural
2124 drainage wells, sinkholes or other conduits to surface water.
- 2125
- 2126 3) The setback requirements in subsection (b)(2) do not apply if the CAFO
2127 demonstrates ~~is able to demonstrate~~ to the Agency that a setback or buffer
2128 is not necessary because implementing ~~implementation of~~ alternative
2129 conservation practices (including, ~~but not limited to~~, injection and
2130 incorporation) or field-specific conditions will provide pollutant
2131 reductions equivalent to or better than the reductions that ~~a~~would be
2132 ~~achieved by the~~ 100-foot setback would achieve.
- 2133
- 2134 c) Livestock waste ~~must~~shall not be applied in a 10-year flood plain unless the
2135 injection or incorporation method of application is used.
- 2136
- 2137 d) Livestock waste ~~must~~shall not be land applied to waters of the United States,
2138 grassed waterways or other conduits to surface waters.

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- e) Livestock waste ~~must~~shall not be land applied within 150 feet of potable water supply wells.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART G: ADDITIONAL LIVESTOCK WASTE DISCHARGE LIMITATIONS

Section 502.710 New Source Performance Standards for Dairy Cows and Cattle Other Than Veal Calves

- a) **New Source Performance Standards (NSPS) Applicability**
Any CAFO with the capacity to stable or confine 700 or more mature dairy cows, whether milked or dry, or 1,000 or more cattle other than mature dairy cows or veal calves that is a new source must achieve the livestock waste discharge limitations representing the application of NSPS as of the date of permit coverage or within the timelines provided in Section 502.303.
- b) The livestock waste discharge limitations representing NSPS for the CAFO production area for CAFOs subject to this Section are the livestock waste discharge limitations found in Sections 502.605 and 502.610.
- c) The livestock waste discharge limitations representing NSPS for the CAFO land application area are the livestock waste discharge limitations and requirements found in Sections 502.615 through 502.645.
- d) CAFOs subject to this Section must comply with Subpart F as of the date of permit coverage or within the timelines provided in Section 502.303~~CAFOs subject to this Section shall attain the limitations and requirements in Subpart F as of the date of permit coverage or within the timelines provided in Section 502.303.~~

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.720 Horse and Sheep CAFOs: BPT, BAT and NSPS

This Section contains the effluent limitations applicable to discharges resulting from the production area at horse and sheep CAFOs. The limitations and requirements of this Section are applicable on the date of permit coverage.~~CAFOs subject to this Section shall attain the limitations and requirements of this Section as of the date of permit coverage.~~ CAFOs with the capacity to stable or confine fewer than 10,000 sheep or fewer than 500 horses are exempt from these effluent limitations.

2182 a) Effluent Limitations Attainable by the Application of the Best Practicable Control
2183 Technology Currently Available (BPT) for Horse and Sheep CAFOs
2184

2185 1) Except as provided in subsection (a)(2), any existing point source subject
2186 to this Section ~~must~~shall have no process wastewater pollutant discharge
2187 ~~of process wastewater pollutants~~ to waters of the United States.
2188 Achieving~~Achievement of~~ no process wastewater discharge to waters of
2189 the United States is the effluent limitation representing the application of
2190 BPT for horse and sheep CAFOs.
2191

2192 2) Process waste pollutants in the overflow may be discharged to waters of
2193 the United States whenever rainfall events, either chronic or catastrophic,
2194 cause process wastewater toan overflow ~~of process waste water~~ from a
2195 facility designed, constructed and operated to contain all process generated
2196 wastewaters plus the runoff from a 10-year, 24-hour rainfall event for the
2197 ~~location of the point~~ source's locationsource.
2198

2199 b) Effluent Limitations Attainable by the Application of the Best Available
2200 Technology Economically Achievable (BAT) for Horse and Sheep CAFOs
2201

2202 1) Except when ~~the provisions of~~ subsection (b)(2) appliesapply, any existing
2203 point source subject to this Section ~~must not~~shall have no discharge of
2204 process wastewater pollutants to waters of the United States.
2205 Achieving~~Achievement of~~ no process wastewater discharge to waters of
2206 the United States is the effluent limitation representing the application of
2207 BAT for Horse and Sheep CAFOs.
2208

2209 2) Whenever rainfall events cause an overflow of process wastewater from a
2210 facility designed, constructed, operated and maintained to contain all
2211 process-generated wastewaters plus the runoff from a 25-year, 24-hour
2212 rainfall event at the ~~location of the point~~ source's locationsource, any
2213 process wastewater pollutants in the overflow may be discharged to waters
2214 of the United States.
2215

2216 c) New Source Performance Standards (NSPS) for Horse and Sheep CAFOs
2217 Except as provided in subsection (b)(2), any new source subject to this Section
2218 ~~must~~shall have no discharge of process wastewater pollutants to waters of the
2219 United States. Achieving~~Achievement of~~ no process wastewater discharge to
2220 waters of the United States is the performance standard representing NSPS for
2221 horse and sheep CAFOs.
2222

2223 (Source: Amended at 47 Ill. Reg. _____, effective _____)
2224

2225 **Section 502.730 Duck CAFOs: BPT and NSPS**

2226

2227 This Section contains the effluent limitations applicable to discharges resulting from the
 2228 production areas at dry lot and wet lot duck CAFOs. CAFOs subject to this Section ~~must~~shall
 2229 attain the limitations and requirements of this Section as of the date of permit coverage. CAFOs
 2230 with the capacity to stable or confine fewer than 5,000 ducks are exempt from these effluent
 2231 limitations.

2232

2233 a) Effluent Limitations Attainable by the Application of the Best Practicable Control
 2234 Technology Currently Available (BPT) for Wet Lot and Dry Lot Duck CAFOs.

2235

2236 Any existing point source subject to this Section ~~must~~shall achieve the following
 2237 effluent limitations representing the degree of effluent reduction attainable by ~~the~~
 2238 applying~~application of~~ BPT:

2239

2240 1) BOD₅ is limited to a maximum daily limit of 3.66 pounds/1,000 ducks or
 2241 1.66 kg/1,000 ducks.

2242

2243 2) BOD₅ is limited to a maximum monthly average of 2.0 pounds/1,000
 2244 ducks or 0.91 kg/1,000 ducks.

2245

2246 3) Fecal coliform is not to exceed the most probable number (MPN) of
 2247 400/100 ml at any time.

2248

2249 b) New Source Performance Standards for Wet Lot and Dry Lot Duck CAFOs

2250

2251 1) Except as provided in subsection (b)(2), any new source subject to this
 2252 Section ~~must not~~shall have no discharge ~~of~~ process wastewater pollutants
 2253 ~~into~~to waters of the United States. ~~Achieving~~Achievement of no process
 2254 wastewater discharge to waters of the United States is the performance
 2255 standard representing NSPS for duck CAFOs.

2256

2257 2) Whenever rainfall events cause an overflow of process wastewater from a
 2258 facility designed, constructed, operated and maintained to contain all
 2259 process-generated wastewaters plus the runoff from a 25-year, 24-hour
 2260 rainfall event at the ~~location of the point~~ source's location~~source~~, any
 2261 process wastewater pollutants in the overflow may be discharged to waters
 2262 of the United States.

2263

2264 (Source: Amended at 47 Ill. Reg. _____, effective _____)

2265

2266 **SUBPART H: NEW SOURCE PERFORMANCE STANDARDS FOR**
 2267 **NEW SWINE, POULTRY AND VEAL LARGE CAFOS**

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Section 502.800 Applicability

- a) This Subpart applies to all new swine, poultry and veal CAFOs with the capacity to stable or confine the total amount of specific animals~~numbers of animals of the types~~ provided for in the definition of large CAFOs in Section 502.103.
- b) ~~This~~~~The requirements of this~~ Subpart H is~~are~~ in addition to the livestock waste discharge limitations and technical standards in Subpart F, except Section 502.605.
- c) The limitations and requirements of this Subpart are applicable on the date of NPDES permit coverage~~must be attained as of the date of NPDES permit coverage~~ or within the timelines provided in Section 502.303.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.820 Land Application Area Requirements

For CAFOs subject to this Subpart, the land application areas must~~shall~~ attain the same limitations and requirements as specified in Sections 502.615 through 502.645.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 502.830 Alternative Best Management Practice Livestock Waste Discharge Limitations

- a) Any CAFO subject to this Subpart may request that the Agency establish NPDES permit best management practice (BMP) livestock waste discharge limitations designed to ensure no discharge of livestock waste based upon a site-specific evaluation of the CAFO's open surface livestock storage structure.
- b) The NPDES permit BMPs for~~BMP~~ livestock waste discharge limitations must address the CAFO's entire production area. In the case of any CAFO using an open surface livestock waste storage structure for which the Agency establishes ~~such~~ livestock waste discharge limitations, "no discharge of livestock waste pollutants," as used in this Subpart H, means that the storage structure is designed, operated, and maintained in accordance with BMPs~~BMP established by~~ the Agency established on a site-specific basis after a technical evaluation of the storage structure.
- c) The technical evaluation must address the elements listed in Section 502.840.

2311 (Source: Amended at 47 Ill. Reg. _____, effective _____)
 2312

2313 **Section 502.840 Technical Evaluation**
 2314

2315 All technical evaluations conducted ~~under~~~~pursuant to~~ this Subpart H must address the minimum
 2316 elements contained in this Section. Waste management and storage facilities designed,
 2317 constructed, operated, and maintained consistent with the analysis conducted in subsections (a)
 2318 through (g) and operated in accordance with the additional measures and records required by
 2319 Section 502.610 will fulfill ~~the requirements of~~ this Subpart.
 2320

- 2321 a) Information to be used in the design of the open manure storage structure
 2322 including, ~~but not limited to:~~
 - 2323 1) Minimum storage periods for rainy seasons;
 - 2324 2) Additional minimum capacity for chronic rainfalls;
 - 2325 3) Applicable technical standards that prohibit or otherwise limit land
 2326 application on frozen, saturated or snow-covered ground found in Section
 2327 502.630;
 - 2328 4) Planned emptying and dewatering schedules consistent with the CAFO's
 2329 nutrient management plan;
 - 2330 5) Additional storage capacity for livestock waste intended to be transferred
 2331 to another recipient at a later time; and
 - 2332 6) Any other factors that would affect the sizing of the structure.
- 2333 b) The design of the open livestock waste storage structure as determined in
 2334 accordance with 40 CFR 412.46(a)(1)(ii), incorporated by reference at 35 Ill.
 2335 Adm. Code 501.200, or equivalent design software or procedures approved by the
 2336 Agency.
 2337

2345 BOARD NOTE: NRCS Animal Waste Management (AWM) software specified
 2346 under 40 CFR 412.46(a)(1)(ii) is available at <http://www.nrcs.usda.gov>.
 2347 Additional information may be obtained from the United States Department of
 2348 Agriculture, Agricultural Research Service, 1400 Independence Avenue, S.W.,
 2349 Washington DC 20250, (202) 720-3656.

- 2350 c) All inputs used in the open livestock waste storage structure design, including:
 2351
 2352

- 2353 1) actual climate data for the previous 30 years, consisting of historical
2354 average monthly precipitation and evaporation values;
2355
2356 2) the number and types of animals;
2357
2358 3) anticipated animal sizes or weights;
2359
2360 4) any added water and bedding;
2361
2362 5) any other process wastewater; and
2363
2364 6) the size and condition of outside areas exposed to rainfall and contributing
2365 runoff to the open livestock waste storage structure.
2366
- 2367 d) The planned minimum period of storage in months, including, ~~but not limited to,~~
2368 the factors for designing an open livestock waste storage structure described in
2369 subsection (a). Alternatively the CAFO may determine the minimum period of
2370 storage by specifying times the storage pond will be emptied consistent with the
2371 CAFO's nutrient management plan.
2372
- 2373 e) Site-specific predicted design specifications, including:
2374
2375 1) dimensions of the storage facility;
2376
2377 2) daily manure and wastewater additions;
2378
2379 3) the size and characteristics of the land application areas; and
2380
2381 4) the total calculated storage period in months.
2382
- 2383 f) An evaluation of the adequacy of the designed manure storage structure in
2384 accordance with 40 CFR 412.46(a)(1)(vi), incorporated by reference at 35 Ill.
2385 Adm. Code 501.200.
2386
- 2387 1) The evaluation must include all inputs used in the simulation, including
2388 ~~but not limited to:~~
2389
- 2390 A) daily precipitation, temperature, and evaporation data for the
2391 previous 100 years;
2392
- 2393 B) user-specified soil profiles representative of the CAFO's land
2394 application areas;
2395

- 2396 C) planned crop rotations consistent with the CAFO's nutrient
2397 management plan; and
2398
2399 D) the final modeled result of no overflows from the designed open
2400 livestock waste storage structure.
2401
2402 2) For those CAFOs where 100 years of local weather data for the CAFO's
2403 location is not available, CAFOs may use a simulation with a confidence
2404 interval analysis conducted over a period of 100 years.
2405
2406 3) The adequacy of the designed manure storage structure may be evaluated
2407 using equivalent evaluation and simulation procedures approved by the
2408 Agency approves.
2409
2410 BOARD NOTE: The Soil Plant Air Water (SPAW) Hydrology Tool
2411 specified at 40 CFR 412.46(a)(1)(vi) is available at
2412 <http://hydrolab.arsusda.gov/SPAW/Index.htm>. Additional information
2413 may be obtained from the United States Department of Agriculture,
2414 Agricultural Research Service, 1400 Independence Avenue, S.W.,
2415 Washington DC 20250, (202) 720-3656.
2416
2417 g) The Agency may waive the requirement in subsection (f) for a site-specific
2418 evaluation of the designed livestock waste storage structure and instead authorize
2419 a CAFO to use a technical evaluation developed for a class of specific facilities
2420 within a specified geographical area.
2421
2422 h) The Agency may request additional information to support a request for livestock
2423 waste discharge limitations based on a site-specific open surface livestock waste
2424 storage structure.
2425

2426 (Source: Amended at 47 Ill. Reg. _____, effective _____)
2427

2428 **Section 502.APPENDIX A References to Previous Rules (Repealed)**

2429
2430 ~~The following table is provided to aid in referencing old Board rule numbers to section numbers~~
2431 ~~pursuant to codification.~~

2432

Chapter 5: Agriculture Related Pollution	35 Ill. Admin. Code 502
Part II, Permits	
Rule 201	Section 502.101
Rule 202	Section 502.102
Rule 202(a)	Section 502.103
Rule 202(b)	Section 502.104
Rule 202	Section 502.105
Rule 203	Section 502.106
Rule 204	Section 502.201
Rule 205	Section 502.202
Rule 206(a)	Section 502.203
Rule 206(b)	Section 502.204
Rule 207(a)	Section 502.205
Rule 207(b)	Section 502.206
Rule 207(c)	Section 502.207
Rule 208	Section 502.301
Rule 209(a)	Section 502.302
Rule 209(b)	Section 502.303
Rule 210	Section 502.304
Rule 105	Section 502.305
Rule 211	Section 502.401
Rule 212	Section 502.402
Rule 213	Section 502.403

2433
2434 (Source: Repealed at 47 Ill. Reg. _____, effective _____)