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October 2, 2014

Vickie Thomas, Executive Director
Joint Committee on Administrative Rules
700 Stratton Building
Springfield, IL 62706

Re: Concentrated Animal Feeding Operations (CAFOs): Proposed
Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504
Board Docket R12-23(A)

Dear Ms. Thomas:

Pursuant to 1 Ill. Adm. Code 220.1250, enclosed please find the Pollution Control Board's response to the Joint Committee on Administrative Rules' recommendation adopted at its July 15, 2014 meeting. Also enclosed is the Board's October 2, 2014 order, which addresses issues including the recommendation.

Thank you for your assistance in this matter.

Sincerely,

Deanna Glosser, Ph.D., Chairman
Illinois Pollution Control Board

cc: Clerk's Office
Enclosure

Agency Response to Joint Committee Recommendation to Proposed Rulemaking

Date: October 2, 2014

Agency: Illinois Pollution Control Board

Heading of the Part: General Provisions
Permits

Code Citation: 35 Ill. Adm. Code 501
35 Ill. Adm. Code 502

Register Citation: 37 Ill. Reg. 18974 (Dec. 2, 2013)
37 Ill. Reg. 19005 (Dec. 2, 2013)

Agency Response to Joint Committee Recommendation:

JCAR recommended that, when the Board opens a subdocket to consider a requirement to submit information to the Illinois Environmental Protection Agency (Agency), “it also address concerns, raised by the NRCS’s [United States Department of Agriculture Natural Resources Conservation Service] comment to JCAR on May 16, 2014 (NRCS Cmt.), that these rulemakings are relying on elements of NRCS standards that are now obsolete and have been replaced by new standards.”

The Board first notes that it has previously addressed the issue of NRCS standards in this proceeding. The Agency’s Statement of Reasons (SR) and Technical Support Document (TSD) filed with its initial proposal on March 1, 2012, referred to NRCS’s Standard 633 – Waste Utilization (633 Standard). SR, Attachment JJ; *see, e.g.*, TSD at 9, 23, 26-27, 31. NRCS subsequently updated its Nutrient Management Practice Standard 590 (590 Standard) in 2013. NRCS stated that “the provisions for land application of manure that previously existed in NRCS Conservation Practice Standard 633 – Waste Utilization were incorporated into the new 590 standard, and 633 was decommissioned from the purpose of using manure as a source of crop nutrients.” NRCS Cmt. at 1

In the following subsections, the Board first summarizes NRCS’s first-notice comments on this issue and then summarizes the Board’s response in its second-notice opinion and order before turning to NRCS’s May 16, 2014 comment to JCAR.

NRCS’s First-Notice Comment

On December 23, 2013, NRCS submitted a comment addressing numerous provisions of the Board’s first-notice proposal (PC 30). In its comments on four of these provisions, NRCS offered suggestions regarding its 590 Standard. In proposed Section 502.510, which addresses nutrient management plan (NMP) requirements, NRCS suggested that the Board consider use of the 590 Standard in development of NMPs. PC 30 at 1. In proposed Section 502.615(a), which addresses assessment of fields for nutrient transport potential, NRCS suggested “that the Board

consider adoption and use of newly developed tools in the [December] 2013 update to the Illinois NRCS 590 standard.” *Id.* at 2. Also, in proposed Section 502.635 addressing sampling and analysis of soil and manure, NRCS suggested that the Board adopt testing laboratory requirements “as outlined in the [December] 2013 Illinois NRCS 590 standard.” *Id.* at 3. NRCS also suggested that the Board incorporate that standard by reference in proposed Section 501.200(a). *Id.*

Board’s Second-Notice Opinion and Order

The Board’s April 17, 2014 Second Notice opinion noted the Agency’s position that NRCS had not described how the 590 Standard differed from the Board’s first-notice proposal or how to apply that standard to the proposal. Second Notice at 3, 44. While the Agency acknowledged that both the Board’s rules and the NRCS standard may apply to a facility, the Agency claimed that any inconsistency between the two can be resolved by amending the NRCS standard. *Id.* The Agency recommended that the Board decline to adopt NRCS’s suggestions. *Id.*

Regarding Sections 501.200(a), 502.510, and 502.615(a), the Board stated that NRCS had not clearly indicated how the 590 Standard would help develop an NMP or improve the implementation of the rules. Second Notice at 3, 44, 49. The Board also stated that NRCS had not clearly suggested whether the Board should incorporate specific elements of or the entire standard into its proposal. *Id.* In addition, the Board stated that NRCS had not explained how the 590 Standard differed from either the proposed rules or the materials the Board proposed to incorporate by reference. *Id.* The Board declined to adopt NRCS’s suggestion that the Board use or incorporate by reference the 590 Standard. *Id.* at 4, 44, 49-50.

Regarding sampling and analysis of soil and manure in proposed Section 502.635, the Board recognized the benefit of having certified laboratories perform this testing. Second Notice at 70. However, the Board expressed reluctance “to add the requirements recommended by the NRCS because the record lacks information on the availability of certified or accredited laboratories to provide the testing services required by the standard.” Second Notice at 70. The Board also noted that the record lacked information on the costs of testing by certified or accredited laboratories and declined to follow NRCS’s recommendation. *Id.*

NRCS Comment to JCAR

The Board has carefully reviewed both the comments submitted to JCAR by NRCS on May 16, 2014, and JCAR’s recommendation. Specifically, the Board has examined each of the points in NRCS’s comment to determine those reflecting JCAR’s concern that the Board’s rules “are relying on elements of NRCS standards that are now obsolete and have been replaced by new standards.” The Board has identified three points reflecting this concern and addresses each of them separately in the following subsections. The remaining points in NRCS’s May 16, 2014 comments to JCAR do not relate to JCAR’s concern that the Board’s rules rely on obsolete standards. Accordingly, the Board has not addressed those points here. The Board previously addressed these points at second notice.

Sections 501.200(a) and 502.510

NRCS states that it “previously suggested that the Board consider the use of the current [590 Standard] in the development of nutrient management plans, and add a reference to the NRCS Standard in these sections.” NRCS Cmt. at 1; *see* PC 30 at 1. NRCS provides additional information to support its suggestion. NRCS Cmt. at 1. NRCS states that the 590 Standard “is national in scope and underwent a very rigorous national process of development, including significant research to back up the requirements of the standard.” *Id.* In Illinois, NRCS claims that development of the 590 Standard involved numerous groups and agencies to develop a standard meeting the state’s conditions and requirements. *Id.* NRCS adds that, “[d]uring this process, the provisions for land application of manure that previously existed in NRCS Conservation Practice Standard 633 – Waste Utilization were incorporated into the new 590 standard, and 633 was decommissioned from the purpose of using manure as a source of crop nutrients.” *Id.*

NRCS states that,

[i]n March 1999, NRCS and USEPA released a ‘Unified National Strategy for Animal Feeding Operations’ that would support the development of Comprehensive Nutrient Management Plans. Since that time, NRCS has worked to develop very detailed information on the development and implementation of Comprehensive Nutrient Management Plans, and has provided significant financial and technical assistance to individual livestock producers to create and implement their plans. NRCS Cmt. at 1.

In addition, NRCS suggests that the Board help to ensure that the regulations are consistent with the 590 Standard. NRCS Cmt. at 1. However, NRCS notes that it “is required to incorporate all applicable state and local requirements into the Conservation Practice Standards.” *Id.* NRCS adds that it “adheres to nutrient management decisions made by the Illinois Pollution Control Board in relation to any assistance that NRCS provides to clients who are subject to the rule.” *Id.*

Section 502.615(a)

NRCS suggests that the Board adopt and use the Illinois Phosphorus Index and the Illinois Nitrogen Management Guidelines, newly-developed tools in the December 2013 update of the 590 Standard. NRCS Cmt. at 2. NRCS describes the Phosphorus Index as an assessment of “the potential for phosphorus to move from agricultural fields to surface water.” *Id.* NRCS elaborates that the methodology assesses individual field conditions and then rates transport potential as high, medium, or low. *Id.* NRCS states that, “[o]nce the initial assessment is completed, site specific practices that will reduce the potential for loss can then be prescribed and implemented.” *Id.* NRCS adds that it “has been required to tailor this tool for use in each state.” *Id.* NRCS characterizes the nitrogen management guidelines as “similar in that field/crop conditions are listed and appropriate nitrogen management practices are required to be implemented that will limit nitrogen losses.” *Id.*

Section 502.620(g)

NRCS agrees “that application of manure on slopes greater than 15% has a high risk for runoff.” NRCS Cmt. at 4. NRCS states that it “is willing to reconsider this provision in the 590 standard.” *Id.* However, NRCS claims “that some allowance should be made for manure application on land that is in permanent cover and the manure is injected or surface applied when the soil is dry (below 50% available water holding capacity) and there is less than a 30% chance of precipitation within 5 days of application.” *Id.*

Board Analysis

As a preliminary matter, it is clear to the Board that NRCS’s concern with reliance on obsolete standards is based upon the 633 Standard. The Board notes NRCS’s comment to JCAR that the land application standards in the 633 Standard “were incorporated into the new 590 standard, and 633 was decommissioned from the purpose of using manure as a source of crop nutrients.” NRCS Cmt. at 1. The Board stresses that the revised rules adopted on August 7, 2014, do not incorporate the 633 Standard by reference. *See* 35 Ill. Adm. Code 501.200(a). No provision in the amendments to Part 501 or Part 502 refers to the 633 Standard. None of those provisions specifically requires compliance with any criteria or practices in that standard. Accordingly, the Board does not believe that owners or operators must meet an obsolete standard. However, the Board in the following subsections will address each of the points pertaining to obsolescence that NRCS raised in its comment to JCAR.

Sections 501.200(a) and 502.510

At first notice, the Board proposed in Section 502.510 that “[a]ny permit issued to a CAFO must include a requirement to implement a nutrient management plan” addressing 17 factors. 35 Ill. Adm. Code 502.510; *see* First Notice at 63-70, 295-97. The Board proposed language based largely upon the Agency’s original rulemaking proposal.

In his testimony on behalf of the Agency, Mr. Bruce Yurdin stated that the Agency’s proposed Section 502.510 intended to “1) comply with the mandates under the federal CAFO rule and 2) provide a comprehensive basis for the decisions made by the livestock producer that result in the management of the livestock waste storage facilities and the land application of the waste.” First Notice at 63. Mr. Yurdin claimed that the Agency’s proposed Section 502.510 is “either taken exactly from the federal rule” or “necessary to implement the federal rule.” *Id.*; *see* SR at 79-81; TSD at 9-14. He added that, while the Agency referred to the LMFA regulations in drafting its proposal, it chiefly emphasized implementation of the federal requirements. First Notice at 63-70.

In first-notice comments, NRCS suggested that the Board consider use of the 590 Standard in developing nutrient management plans and refer to the standard in this section. PC 30 at 1. NRCS also suggested that the Board include the 590 Standard in materials incorporated by reference. *Id.*; *see* 35 Ill. Adm. Code 501.200(a).

In first-notice comments, the Agency recommended that the Board decline to adopt this suggestion. The Agency stated that NRCS had not explained how the 590 Standard differed from the Board's proposal or how to apply the standard. The Agency also noted that, if the proposed rule is not consistent with the standard, NRCS can amend the standard. PC 3027 at 22-23.

In its second-notice opinion, the Board declined to amend Section 502.510 of its proposal by referring to the 590 Standard. The Board stated that NRCS had not explained how its standard would improve the development of nutrient management plans. Second Notice at 44. The Board also declined to incorporate the standard by reference in Section 501.200(a). *Id.* at 3-4.

In its comment to JCAR, NRCS supplied information about its programs. NRCS stated that, since the 1999 release of a "Unified National Strategy for Animal Feeding Operations," it has generated "very detailed information on the development and implementation of Comprehensive Nutrient Management Plans [CNMP], and has provided significant financial and technical assistance to individual livestock producers to create and implement their plans." NRCS Cmt. at 1. Mr. Funk's testimony described the CNMP as voluntary, although he indicated that preparation of a CNMP may be required for participation in certain cost-sharing or incentive programs. Tr.3 at 37-40.

NRCS stated that the 590 Standard went through a rigorous national process of research and development. NRCS added that interested entities including the Agency helped to develop a standard meeting requirements and conditions in Illinois. "During this process, the provisions for land application of manure that previously existed in NRCS Conservation Practice Standard 633 – Waste Utilization were incorporated into the new 590 standard, and 633 was decommissioned from the purpose of using manure as a source of crop nutrients." NRCS Cmt. at 1.

NRCS stated that it "is required to incorporate all applicable state and local requirements into the Conservation Practice Standards. For example, "all elements of the current Illinois Livestock Management Facilities Act (LMFA) have been incorporated into the current 590 standard." NRCS Cmt. at 1. NRCS added that it "adheres to nutrient management decisions made by the Illinois Pollution Control Board in relation to any assistance that NRCS provides to clients who are subject to the rule." *Id.* NRCS suggests that the Board work with it to ensure that 590 Standard is consistent with Illinois regulations. *Id.*

This review of the rulemaking record convinces the Board that it has fully considered this issue. The nutrient management plan requirements at Section 502.510 intend to implement the federal CAFO requirements. The Board notes that a number of provisions of Section 502.510 are not included in the 590 Standard. Land application requirements in subsection (b)(2), storage facilities in subsection (b)(3), and management of mortalities at subsection (b)(4) are not addressed in the 590 Standard. As discussed below, adoption of provisions of the 590 Standard such as a phosphorus index may raise implementation issues. Also, the Board's NMP regulations do not conflict with the 590 Standard or restrict development of CNMPs. In its discussion of Section 502.510, the Board addressed CNMPs with regard to the agricultural

stormwater exemption. Under the Agency's proposal, a precipitation-related discharge of livestock waste from a land application area qualifies as an exempt agricultural stormwater discharge if a permitted CAFO complies with Sections 502.510(a) and (b) and if an unpermitted Large CAFO employs practices meeting the requirements and standards of Section 502.510(b). First Notice at 162.

In his testimony on behalf of the Agricultural Coalition, Dr. Funk argued that CNMPs are rigorous and that the "the Board should accept those plans as a basis to claim the agricultural stormwater exemption." Second Notice at 163, citing Funk Test. at 2. However, Dr. Funk acknowledged setbacks from surface water as one respect in which the Board's proposal is more restrictive than the requirements for a CNMP. Funk Test. at 2-3.

In its second-notice opinion, the Board found that proposed Section 502.510 "appropriately addresses the form, source, amount, timing, and method of application to establish protocols for land application of livestock waste applicable to unpermitted Large CAFOs that seek to claim the agricultural stormwater exemption." Second Notice at 166. The Board concluded that the Agency's proposal implemented the requirements of the federal CAFO rules and "ensures best management practices to minimize runoff of excessive levels of nutrients during wet-weather conditions." *Id.*

The Board recognized Dr. Funk's view that regulated entities may become subject to conflicting regulatory schemes. The Board cited the Agency's position that the federal CAFO rules and its own proposal do not require an unpermitted Large CAFO to follow any particular plan to qualify for the agricultural stormwater exemption. Second Notice at 168. The Agency stated that it sought to provide facilities with flexibility to determine practices qualifying for that exemption. The Board indicated that, if compliance with another plan meets the requirements of Section 502.510, a facility would be free to demonstrate that compliance and claim the exemption. *Id.* The Board concluded that it saw "no conflict between these programs." *Id.*

Based on this review of its record, the Board is not persuaded to require use of the 590 Standard as the basis to develop an NMP or to use compliance with the 590 Standard as the basis to claim the agricultural stormwater exemption. The Board remains convinced that the adopted rules appropriately implement federal CAFO requirements and do not conflict with the voluntary CNMP program. In light of these considerations, the Board concludes that it has not adopted an obsolete standard that now requires revision. In light of this conclusion, the Board declines to incorporate that standard by reference. Accordingly, the Board respectfully declines to follow JCAR's recommendation that it continue to address this issue in a subdocket.

Section 502.615(a)

At first notice, the Board proposed that, in determining nutrient transport potential, "[a]n 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." See 35 Ill. Adm. Code 502.615(a). To determine the potential for transport of nitrogen and phosphorus from the field to waters of the United States, the assessment must address nine factors. *Id.* These factors include soil type, slope, soil test phosphorus, proximity to surface

waters and wells, and potential for soil erosion. *Id.* The Board amended the Agency's proposal by requiring a tenth factor, the presence of subsurface drainage tiles. First Notice at 219-21, 308.

In his testimony on behalf of the Agency, Mr. Sanjay Sofat distinguished the Agency's proposal from other states relying on a phosphorus index. He stated that the proposal

depends on several site specific physical factors and conservation practices to address the issue of nutrient transport from a field to the waters of the U.S. To determine the suitability of a field for land application of livestock waste, each field is assessed based on several factors to determine runoff and erosion potential of that field. The field assessment then allows the applicant to determine the appropriate application rate – nitrogen-based or phosphorus-based – for the assessed field. Both the nitrogen based application and phosphorus based application of livestock waste are then subject to their own set of requirements to ensure that transport for nutrients from the assessed field is minimal. First Notice at 78.

Mr. Sofat also testified that the Agency drafted this provision “in cooperation with and based on suggestions by a work group consisting of interested participants.” *Id.*; see SR at 91-92, Att. N (meeting attendance records).

In first-notice comments, NRCS proposed that the Board employ the phosphorus index and nitrogen guidelines in the 590 Standard. PC 30 at 2.

In first-notice comments, the Agency recommended that the Board decline to adopt this suggestion. The Agency stated that NRCS had not explained how the standard differed from the Board's proposal. The Agency also noted that, if the proposed rule is not consistent with the standard, NRCS can amend its standard. PC 3027 at 22.

In its second-notice opinion, the Board declined to amend Section 502.615(a) of its proposal by referring to or incorporating the 590 Standard. Second Notice at 49-50. The Board stated that NRCS had not explained how its standard differed from the Board's proposal or “clearly indicated how that standard would improve implementation of the rules.” *Id.* at 49.

In its comment to JCAR, NRCS indicated that its phosphorus index is a “tool used to assess the potential for phosphorus to move from agricultural fields to surface water.” NRCS Cmt. at 2. NRCS states that the index “is a methodology that assesses the individual conditions in each field (*i.e.*, sheet and rill erosion, ephemeral erosion, distance to water, soil test levels, application rates and practices) and rates the potential for loss as low, medium, or high.” *Id.* NRCS added that, based on the assessment, “site specific practices that will reduce the potential for loss can then be prescribed and implemented.” *Id.* NRCS described its nitrogen guidelines as “similar.” *Id.*

This review of the rulemaking record convinces the Board that it has fully considered this issue. The Agency prepared its original rulemaking proposal in consultation with a group of interested parties, which included agricultural production groups and environmental

organizations. SR at 91-92. The Agency named Section 502.615 as a specific provision that this group attempted to draft. *Id.* at 91. Under that section, owners and operators determine nutrient transport potential “using several physical factors (*e.g.*, soil type, conservation practices) they may use in controlling runoff and erosion on the land application fields.” TSD at 22. The assessment seeks “to understand how these factors play a role and to what extent certain risk factors, such as proximity to field tiles, may also be involved.” *Id.* Regarding a phosphorus index, the Agency has stated that,

[i]n many states where a phosphorus index has been developed, the United States Department of Agriculture – Natural Resource Conservation Service and the state land grant university develop a phosphorus index for the state, which was then adopted into the CAFO technical standards or CAFO NPDES permits. Neither the USDA-NRCS nor the University of Illinois have developed a phosphorus index for Illinois. P indexes for other states are developed for the soils and conditions in those states and are not applicable to Illinois. Concentrated Animal Feeding Operations (CAFOs): Proposed Amendments to 35 Ill. Adm. Code Parts 501, 502, and 504, R12-23, Attachment 1 at 3-4 (Aug. 14, 2012) (Agency responses to Board questions).

As noted above, Mr. Sofat testified that, in the absence of a phosphorus index similar to those in use in other states, the Agency’s proposed Section 502.615 relies on numerous factors to determine whether a field is suitable for land application of livestock waste.

While NRCS has described its methodologies, it has not explained how they differ from the Agency’s proposal and the Board’s rule or how they would improve protection of surface waters. In addition, it does not appear that a phosphorus index has been developed specifically for implementation in Illinois on a statewide basis. The Board is not persuaded that it should replace the assessment process that originated from the Agency’s consultation with interested parties. In light of these considerations, the Board concludes that it has not adopted an obsolete standard that now requires revision. Accordingly, the Board respectfully declines to follow JCAR’s recommendation that it continue to address this issue in a subdoCKET.

Section 502.620(g)

At first-notice, the Board proposed to prohibit the land application of livestock waste on slopes greater than 15%. *See* 35 Ill. Adm. Code 502.620(g). The Agency had included this prohibition in its original rulemaking proposal.

In first-notice comments, the Agricultural Coalition recommended that the Board delete this prohibition. On behalf of the Coalition, Dr. Ted Funk noted that the Revised Universal Soil Loss Equation 2 (RUSLE2) (*see* 35 Ill. Adm. Code 501.360) encompasses impacts from land application methods and stated that RUSLE2 may limit or prohibit land application of livestock waste on slopes greater than 15%. Dr. Funk noted that the 590 Standard allows land application of livestock waste on slopes greater than 15% if the waste is injected or incorporated. PC 3030.

In first-notice comments, the Environmental Groups favored maintaining the restriction proposed by the Board. The Groups stated that they had not seen evidence supporting the weakening of the NRCS standard and that the Agricultural Coalition had not provided it. The Groups claimed that NRCS's revised 590 Standard might increase the threat of pollution because the soil disturbance resulting from incorporation on slopes greater than 15% could increase erosion and loss of applied waste. In addition, the Groups stated that the 590 Standard defers to state regulations, which are not drafted to be completely consistent with NRCS standards. The Groups also cited the Agency's position that prohibiting application of livestock waste on slopes greater than 15% is essential. PC 3041.

In first-notice comments, the Agency "strongly" recommended that the Board adopt the restriction proposed at first notice. The Agency stated that injection or incorporation of livestock waste up and down slopes may induce gully erosion, which can account for the majority of the total sediment eroded from a field. The Agency also argued that the Agricultural Coalition had not explained how the new 590 Standard offset the previous 633 Standard, which had prohibited land application on slopes greater than 15%. PC 3042.

In its second-notice opinion, the Board declined to delete or amend its original proposal. Second Notice at 58.

The Agency's TSD states that "[r]unoff of nutrients to surface waters is more likely from fields with steep slopes than fields with gentle or no slope. As the slope increases, so does the potential of runoff from fields where the livestock waste was applied." TSD at 31. Proposing rules to the Board, the Agency noted NRCS's recommendation in Standard 633 that prohibiting application on cropland with slopes greater than 15% ensures "that cropland meets soil loss tolerance." TSD at 31. The Agency concluded that "this protocol or best management practice is essential to minimize nutrient runoff potential." *Id.*

In its second-notice opinion and order, the Board reviewed participants' comments on this issue. While Dr. Funk referred to the 590 Standard, which allows surface application of livestock waste on slopes greater than 15% where the waste is incorporated or injected, he recommended deleting this slope-based restriction rather than amending it. Other participants supported the Board's first-notice proposal. Those comments show doubt that amending this restriction to conform to the 590 Standard would protect from erosion and waste runoff. The Agency stated that incorporation or injection on slopes could induce gully erosion. The Environmental Groups argued that soil disturbance caused by incorporation on steeper slopes could result in greater erosion and waste runoff.

This review of the rulemaking record convinces the Board that it has fully considered this issue. While the Agency's TSD noted the 633 Standard, it proposed this prohibition because it "is essential to minimize nutrient runoff potential." TSD at 31. In its comment to JCAR, "NRCS agrees with the board that application of manure on slopes greater than 15% has a high risk for runoff." NRCS Cmt. at 4. Both the Agency and the Environmental Groups have commented that incorporation or injection on steeper slopes may result in soil erosion and waste runoff. Furthermore, the 590 Standard requires that "[m]anure application(s) must meet all applicable state and federal regulations such as the Livestock Management Facilities Act

(LMFA), the Illinois Environmental Protection Act, and Federal Clean Water Act.” 590 Standard at 4 (Dec. 2013). NRCS states that it “is willing to reconsider this provision in the 590 standard.” NRCS Cmt. at 4. In light of these considerations, the Board concludes that it has not adopted an obsolete standard that now requires revision. Accordingly, the Board respectfully declines to follow JCAR’s recommendation that it continue to address this issue in a subdocket.

Summary

In NRCS’s comment to JCAR, the Board has identified three points pertaining to the obsolescence of NRCS standards. As the Board noted above, its adopted rules do not incorporate the 633 Standard by reference, do not refer to it, and do not specifically require compliance with any of its criteria or practices. The Board assures JCAR and NRCS that it has carefully reviewed its record and considered these three points. However, on each of them the Board concludes that it has not adopted an obsolete standard that now requires revision. Accordingly, the Board respectfully declines JCAR’s recommendation to expand the scope of its subdocket to continue consideration of these three points.

