

567—65.112 (459A) Nutrient management plan requirements.

65.112(1) The owner of an open feedlot operation which has an animal unit capacity of 1,000 animal units or more or which is required to be issued an NPDES permit shall develop and implement a nutrient management plan meeting the requirements of this rule. The owner of an open feedlot operation that seeks to obtain or is required to be issued an NPDES permit after December 31, 2006, shall develop and implement a nutrient management plan meeting the requirements of this rule no later than the date on which the NPDES permit becomes effective. For the purpose of this rule, requirements pertaining to open feedlot effluent also apply to settled open feedlot effluent and settleable solids.

65.112(2) Not more than one open feedlot operation shall be covered by a single nutrient management plan. For an open feedlot operation that is required to have an NPDES permit and the animal feeding operation includes an open feedlot operation and a confinement feeding operation, the nutrient management plan must include both the open feedlot operation and the confinement feeding operation if the confinement feeding operation does not have a manure management plan. If the confinement feeding operation portion of the animal feeding operation does have a manure management plan as required in 567—65.16(455B) and 567—65.17(455B), the confinement feeding operation portion shall not be included in the nutrient management plan; however, in that event, the manure management plan must be amended to include the information specified in 65.112(8)“e.”

65.112(3) A person shall not remove manure, process wastewater or open feedlot effluent from an open feedlot operation structure which is part of an open feedlot operation for which a nutrient management plan is required under this rule, unless the department approves a nutrient management plan as required in this rule.

65.112(4) The department shall not approve an application for a permit to construct a settled open feedlot effluent basin or AT system unless the owner of the open feedlot operation applying for approval submits a nutrient management plan together with the application for the construction permit as provided in rule 567—65.105(459A). The owner shall also submit proof that the owner has published a notice for public comment as provided in 65.112(7).

65.112(5) If a construction permit is required as provided in rule 567—65.105(459A), the department shall approve or disapprove the nutrient management plan as part of the construction permit application. If a construction permit is not required, the department shall approve or disapprove the nutrient management plan within 60 days from the date that the department receives the nutrient management plan.

65.112(6) Prior to approving or disapproving a nutrient management plan as required in this rule, the department may receive comments exclusively to determine whether the nutrient management plan is submitted according to procedures required by the department and that the nutrient management plan complies with the provisions of this rule.

65.112(7) Public notice.

a. The owner of the open feedlot operation shall publish a notice for public comment in a newspaper having a general circulation in the county where the open feedlot operation is or is proposed to be located and in the county where manure, process wastewater, or open feedlot effluent which originates from the open feedlot operation may be applied under the terms and conditions of the nutrient management plan.

b. The notice for public comment shall include all of the following:

- (1) The name of the owner of the open feedlot operation submitting the nutrient management plan.
- (2) The name of the township where the open feedlot operation is or is proposed to be located and the name of the township where manure, process wastewater, or open feedlot effluent originating from the open feedlot operation may be applied.
- (3) The animal unit capacity of the open feedlot operation.
- (4) The time when and the place where the nutrient management plan may be examined as provided in Iowa Code section 22.2.

(5) Procedures for providing public comment to the department. The notice shall also include procedures for requesting a public hearing conducted by the department. The department is not required

to conduct a public hearing if it does not receive a request for the public hearing within ten days after the first publication of the notice for public comment as provided in this subrule. If such a request is received, the public hearing must be conducted within 30 days after the first date that the notice for public comment was published.

(6) A statement that a person may acquire information relevant to making comments under this subrule by accessing the department's Internet Web site. The notice for public comment shall include the address of the department's Internet Web site as required by the department.

65.112(8) A nutrient management plan shall include all of the following:

a. Restrictions on the application of open feedlot effluent based on all of the following:

(1) A phosphorus index of each field in the nutrient management plan, as required in 65.17(17), including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation. In addition, total phosphorus (as P₂O₅) available to be applied from the open feedlot operation shall be included.

(2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in subrule 65.17(4). The 100 pounds of available nitrogen per acre limitation specified in paragraph 65.17(18)“c” (applicable to open feedlot operations and combined open feedlot and confinement operations with an NPDES permit because of requirements in subrule 65.17(4)) pertaining to liquid manure applied to land currently planted to soybeans or to land where a soybean crop is planned applies only to liquid manure, process wastewater or settled open feedlot effluent.

b. Information relating to the application of the manure, process wastewater and open feedlot effluent, including all of the following:

(1) Nutrient levels of the manure, process wastewater and open feedlot effluent.

(2) Application methods, the timing of the application, and the location of the land where the application occurs.

c. If the application is on land other than land owned or rented for crop production by the owner of the open feedlot operation, the plan shall include a copy of each written agreement executed by the owner of the open feedlot operation and the landowner or the person renting the land for crop production where the manure, process wastewater or open feedlot effluent may be applied.

d. An estimate of the manure, process wastewater and open feedlot effluent volume or weight produced by the open feedlot operation.

e. Information which shows all of the following:

(1) There is adequate storage for manure, process wastewater, stockpiled manure and open feedlot effluent, including procedures to ensure proper operation and maintenance of the storage structures.

(2) The proper management of animal mortalities to prevent discharge of pollutants to surface water and to ensure that animals are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat animal mortalities.

(3) Surface drainage prior to contact with an open feedlot structure is diverted, as appropriate, from the open feedlot operation.

(4) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.

(5) Chemicals or other contaminants handled on site are not disposed of in manure, process wastewater, an open feedlot operation structure or a treatment system that is not specifically designed to treat such chemicals or contaminants.

(6) Equipment used for the land application of manure, process wastewater or open feedlot effluent must be periodically inspected for leaks.

(7) Appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States.

(8) Protocols for appropriate testing of manure, process wastewater, open feedlot effluent and soil.

(9) Protocols to land-apply manure, process wastewater or open feedlot effluent in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, process wastewater or open feedlot effluent.

(10) Identification of specific records that will be maintained to document the implementation and management of the requirements in this subrule.

65.112(9) If an open feedlot operation uses an alternative technology system as provided in rule 567—65.110(459A), the nutrient management plan is not required to provide for settled open feedlot effluent that enters the AT system.

65.112(10) Current nutrient management plan, record keeping and inspections.

a. Current nutrient management plan. The owner of an open feedlot operation who is required to submit a nutrient management plan shall maintain a current nutrient management plan at the site of the open feedlot operation and shall make the current nutrient management plan available to the department upon request. If nutrient management practices change, a person required to submit a nutrient management plan shall make appropriate changes consistent with this rule. If values other than the standard table values are used for nutrient management plan calculations, the source of the values used shall be identified.

b. Record keeping. Records shall be maintained by the owner of a open feedlot operation who is required to submit a nutrient management plan. This recorded information shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the open feedlot operation and shall be made available to the department upon request. Records to demonstrate compliance with the nutrient management plan shall include the following:

(1) Factors used to calculate the manure, process wastewater and open feedlot effluent application rate:

1. Optimum yield for the planned crop.
2. Types of nitrogen credits and amounts.
3. Remaining crop nitrogen needed.
4. Nitrogen content and first-year nitrogen availability of the manure, process wastewater and open feedlot effluent.
5. Phosphorus content of the manure, process wastewater and open feedlot effluent as required in 65.17(3) “i”(1) and (2). If an actual sample is used, documentation shall be provided.

(2) If phosphorus-based application rates are used, the following shall be included:

1. Crop rotation.
2. Phosphorus removed by crop harvest of that crop rotation.

(3) Maximum allowable manure, process wastewater and open feedlot effluent application rate.

(4) Actual manure, process wastewater and open feedlot effluent application information:

1. Method(s) of application when manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

2. Date(s) when the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

3. Weather conditions at time of application and for 24 hours prior to and following the application.

4. Location of the field where the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied, including the number of acres.

5. The manure, process wastewater or open feedlot effluent application rate.

6. Dates when application equipment was inspected.

(5) Date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received manure, process wastewater or open feedlot effluent. However, if the date and application rate information is for fields which are not owned for crop production or which are not rented or leased for crop production by the person required to keep records pursuant to this subrule, an enforcement action for noncompliance with a nutrient management plan or the requirements of this subrule shall not be pursued against the person required to keep records pursuant to this subrule or against any other person who relied on the date and application rate in records required to be kept pursuant to this subrule, unless that person knew or should have known that nitrogen or phosphorus would be applied in excess of maximum levels set forth in paragraph 65.17(1) "a." If nutrients are applied to fields not owned, rented or leased for crop production by the person required to keep records pursuant to this subrule, that person shall obtain from the person who owns, rents or leases those fields a statement specifying the planned commercial nitrogen and phosphorus fertilizer rates to be applied to each field receiving the nutrients.

(6) A copy of the current soil test laboratory results for each field in the nutrient management plan.

(7) All applicable records identified in 65.112(8) "e" (7).

c. Record inspection. The department may inspect an open feedlot operation at any time during normal working hours and may inspect the nutrient management plan and any records required to be maintained.

65.112(11) Settled open feedlot effluent on land planted to soybeans. Effective May 14, 2013, the owner of an open feedlot operation that is required to submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure, process wastewater or settled open feedlot effluent shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10]