

§4204. Nutrient management plan

1. Nutrient management plan required. A person who owns or operates a farm that meets the criteria established in subsection 2 shall have a nutrient management plan for that farm and shall implement the provisions in that plan by the dates specified for that category of farm in subsection 4, 5, 6 or 7. The nutrient management plan must be prepared by a person certified in accordance with section 4202, subsection 2 and must address the storage and utilization of all farm nutrients generated on or transported to the farm. A nutrient management plan developed by a farm owner or operator is deemed to have been prepared by a certified nutrient management specialist if a certified nutrient management specialist reviews the plan for compliance with this chapter, signs the plan and notifies the department in accordance with subsection 3.

- A. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - B. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - C. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - D. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - E. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - F. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - G. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
 - H. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]
- [PL 2003, c. 452, Pt. B, §24 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-A. Plan requirements. For livestock farms, the nutrient management plan must address storage and utilization of farm nutrients for the entire farm operation including leased or rented land. For crop farms, the plan must address storage and utilization of farm nutrients on land on which manure is utilized or stored. A nutrient management plan must include or provide for:

- A. Minimum distances between manure storage, stacking and spreading areas and property lines and surface water based on site-specific factors; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- B. Manure storage for a minimum of 180 days; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- C. Provisions for soil erosion control; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- D. [PL 2005, c. 382, Pt. B, §2 (RP).]
- E. Results of soil tests for land designated in the plan for manure spreading or manure irrigation; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- F. Results of manure tests; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- G. A statement of yield goals for land receiving farm nutrients; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- H. Additional information established through rulemaking; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- I. Site-specific dates recommended for the spreading of manure and spraying or irrigation of liquid manure. In compliance with section 4207, the plan may not recommend spreading between December 1st of a calendar year and March 15th of the following calendar year; and [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

J. A recommended timetable for implementing the plan. [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2005, c. 382, Pt. B, §2 (AMD).]

2. Farms requiring a nutrient management plan. A farm that meets one or more of the following criteria is required to have a nutrient management plan:

A. A farm that confines and feeds 50 or more animal units at any one time; [PL 1997, c. 642, §2 (NEW).]

B. A farm that stores or utilizes more than 100 tons of manure per year not generated on that farm; [PL 2007, c. 240, Pt. ZZ, §1 (AMD).]

C. A farm that is the subject of a verified complaint of improper manure handling; or [PL 1999, c. 530, §4 (AMD).]

D. A farm that stores or utilizes regulated residuals. [PL 1997, c. 642, §2 (NEW).]
[PL 2007, c. 240, Pt. ZZ, §1 (AMD).]

3. Responsibility of person preparing nutrient management plans. Upon completion of a nutrient management plan, a person certified to prepare nutrient management plans in accordance with this chapter shall notify the department. The notification must include the name and address of the owner or operator of the farm and the location of the farm for which the plan was prepared. A person preparing a nutrient management plan required by this chapter shall adhere to rules adopted in accordance with this chapter pertaining to the preparation and requirements of the plan.
[PL 1997, c. 642, §2 (NEW).]

4. Compliance date for farms operational on March 31, 1998. Except for a farm requiring a livestock operations permit under section 4205 or as provided in subsection 8, an owner or operator of a farm that was operational on March 31, 1998 and meets the criteria established in subsection 2, paragraph A or B shall have a nutrient management plan prepared for that farm no later than January 1, 2001. Except as provided in subsection 8, the plan must be implemented no later than October 1, 2007.
[PL 2001, c. 64, §1 (AMD).]

5. Compliance date for farms that were operational on March 31, 1998 that store or use regulated residuals. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2, paragraph D and that was operational on March 31, 1998 shall have that plan prepared by January 1, 2000. Except as provided in subsection 8, the plan must be implemented no later than January 1, 2000.
[PL 1999, c. 530, §4 (NEW).]

6. Compliance date for farms becoming operational after March 31, 1998. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2 and that was not operational on March 31, 1998 shall have a nutrient management plan prepared before the farm becomes operational. Except as provided in subsection 8, the plan must be implemented at the time the farm becomes operational.
[PL 1999, c. 530, §4 (NEW).]

7. Compliance date for farms subject of verified complaint. When a farm is required to have a nutrient management plan under subsection 2, paragraph C, the commissioner shall establish a date by which the plan must be developed and a date for implementation of the plan.
[PL 1999, c. 530, §4 (NEW).]

8. Variances. For farms with compliance dates established in subsection 4, the commissioner may grant a variance from the date by which a nutrient management plan must be prepared and certified when the commissioner finds that technical assistance or resources are not available to complete and

certify the plan by January 1, 2001. The commissioner may grant a variance from the implementation date in subsection 4, 5 or 6 when the commissioner finds that implementation of the plan would cause undue hardship. A person requesting a variance shall submit a request in writing to the commissioner at least 90 days prior to the applicable implementation date. The commissioner shall establish by rule criteria and a process for granting a variance. Factors considered must include protection of groundwater and surface water, cost of implementing the plan, availability of financial assistance to implement the plan and availability of technical assistance or resources to complete and certify the plan. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Notwithstanding the provisions of this subsection, a variance may not extend an implementation date beyond December 31, 2008. A person denied a variance by the commissioner may appeal that decision to the board.

[PL 2001, c. 64, §2 (AMD).]

9. Violation. The following are civil violations for which a fine of up to \$1,000 plus up to an additional \$250 per day for each day that the violation continues may be adjudged:

A. Failure to develop a nutrient management plan in accordance with this section; and [PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Failure to implement a nutrient management plan in accordance with this section or rules adopted pursuant to this section. Prior to the development of a plan, a person is not subject to a penalty for failure to implement a nutrient management plan. [PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

10. Nutrient management plan confidential. A nutrient management plan prepared in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. A copy of a nutrient management plan required under this section must be available to the commissioner or the commissioner's designee upon request.

[PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §4 (AMD). PL 1999, c. 723, §1 (AMD). PL 2001, c. 64, §§1,2 (AMD). PL 2003, c. 452, §§B24-26 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 382, §B2 (AMD). PL 2007, c. 240, Pt. ZZ, §1 (AMD).

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