Message

From: Duchovnay, Andrew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E8726F381C94832903BD672516F7C10-ADUCHOV]
Sent: 3/3/2016 6:56:16 PM
To: Stephanie Cobb Williams -MDE- [stephaniecobb.williams@maryland.gov]
Subject: RE: DE General Permit for Poultry CAFOs that do not land apply

Hi Stephanie, here is a similar quote from the 2003 CAFO Rule Preamble.

68 FR 7213:

Further, while the provisions of 122.42(e)(1) and 412.4(c)(1) do not specifically require nutrient management plans to be prepared or reviewed by certified experts, EPA recognizes that USDA, and other organizations such as the American Society of Agronomy, Crop Science Society of America, Soil Science Society of America, and a number of land grant universities, recommend that nutrient management plans be prepared by trained and certified specialists. USDA has published technical guidance that calls for the development of CNMPs and details the specific components and considerations that should be addressed during CNMP development. The Unified AFO Strategy, developed jointly by USDA and EPA, defines a national objective for all AFOs to develop CNMPs to ensure appropriate agricultural utilization of nutrients. (The vast majority of these CNMPs will be developed under voluntary programs.) EPA is not requiring CAFOs to use certified experts in preparing the nutrient management plans and is not requiring CAFOs to develop CNMPs, but the regulatory requirements for nutrient management plans are designed to dovetail with USDA standards for CNMPs so that CAFOs can meet EPA's nutrient management plan requirements and USDA's CNMP objectives in a single undertaking. It is therefore reasonable to expect that many CAFOs will opt to have their nutrient management plans prepared by certified

specialists, an outcome that EPA encourages.

From: Stephanie Cobb Williams -MDE- [mailto:stephaniecobb.williams@maryland.gov]
Sent: Thursday, March 03, 2016 1:31 PM
To: Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>
Subject: Re: DE General Permit for Poultry CAFOs that do not land apply

Hi Andy,

FYI, I was looking through the NPDES Permit Writers' Manual for CAFOs (Feb. 2012) and Appendix C: Example NPDES CAFO Permit Annual Report (p. C-2) contains the following language:

"...Indicate whether the facility's nutrient management plan was developed or approved by a certified nutrient management planner. Note: The [permitting authority] does not require CAFO owners or operators to use a certified nutrient management planner to prepare or approve nutrient management plans."

The form this goes on to ask whether the current version of the facility's NMP was prepared or approved by a certified nutrient management planner.

This may resolve the issue with regard to EPA's interpretation of the federal regulations, but MDE still has its State regulation issue that we discussed earlier today.

Stephanie Cobb Williams
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On Thu, Mar 3, 2016 at 10:22 AM, Duchovnay, Andrew <Duchovnay.Andrew@epa.gov> wrote:

> Thanks Stephanie, this project will require a lot of thought and creativity by us all. It is a pleasure working on this with you and Andrea along the way.
>
> Best,
>
> Andy
>
> **From:** Stephanie Cobb Williams -MDE- [mailto:stephaniecobb.williams@maryland.gov]
> **Sent:** Thursday, March 03, 2016 10:16 AM

To: Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>
Subject: Re: DE General Permit for Poultry CAFOs that do not land apply

I think MDE could keep the existing NMP definition (for land CAFOs the NMP should definitely be prepared by an MDA certified nutrient planner) but make changes to the regulations to create a new type of plan that would accomplish all federal requirements, e.g.- 9 minimum standards, etc. This plan would not have to be prepared by a MDA certified nutrient management planner. MDE would likely need to revise its definition of "required plan" to include this new type of plan. Currently, MDE's regulations state that a "plan" or "required plan" means a CNMP, NMP, or CP. There are other revisions that would likely need to be made to MDE's AFO regulations and possibly elsewhere in order to set forth any no land/land CAFO scheme. These are just my initial thoughts and I will likely have more suggestions after giving this more thought.

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On Thu, Mar 3, 2016 at 9:33 AM, Duchovnay, Andrew <Duchovnay.Andrew@epa.gov> wrote:

Stephanie, I noted that while the federal regs to not require that an NMP be prepared by a certified NMP planner, Maryland regs (COMAR 26.08.03.08) defined an NMP as a "plan written by a nutrient planner certified by the Maryland Department of Agriculture".

Wouldn't this be an obstacle if MD was thinking of having NMPs for non-land applying poultry CAFOs prepared by someone other than a certified planner? Any thoughts on how this would be resolved?

From: Stephanie Cobb Williams -MDE- [mailto:stephaniecobb.williams@maryland.gov]
Sent: Thursday, March 03, 2016 9:01 AM
To: Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>
Subject: Re: DE General Permit for Poultry CAFOs that do not land apply

Hi Andy,

Thank you.

Stephanie Cobb Williams
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On Thu, Mar 3, 2016 at 8:56 AM, Duchovnay, Andrew <Duchovnay.Andrew@epa.gov> wrote:

Hi Stephanie, here is the link to the DE Draft GP for Poultry CAFOs that do not land apply.

http://www.dnrec.delaware.gov/wr/Information/SWDInfo/Documents/Final%20Draft%20General%20CAFO%20Permit%20for%20Large%20and%20Medium%20Poultry%20Operations.Manure%20Generation%20Only.pdf