

Nutrient Regulations & Restrictions

What to know & what may be coming

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Today's agenda

- What are current regulations impacting nutrient management and their implications?
- What may be coming?
- Who has the power to dictate what you do, both directly and indirectly?
- What can you do to have influence over what may influence you?



Farmers on the radar

Regulators, legislators and non-government organizations are watching how and what farmers do, especially as it relates to nutrient management and environmental quality.



Why?

- Farmers manage the vast majority of Iowa's land area; very visible to the public and regulators
- Farmers comprise a small constituency and can be easily identified
- Growing concerns about environmental quality; claims that “voluntary efforts aren't working.”



Poison on tap

Minnesota's voluntary guidelines on reducing farm runoff aren't working fast enough, critics say.



FEB. 2, 2011 -- Here in the heart of southeast Minnesota farm country, everyone knows you don't drink the water.

Saturday

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50¢

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What we know

- There are numerous rules and regulations that farmers must know and follow
- Nutrient use is highly regulated... that's not going to change any time soon
- Public pressure growing to do more to “protect” soil and water quality



Direct and Indirect oversight

- **Direct**

- Iowa law requires no water pollution from the application of manure
- No surface manure application within 200 feet of “designated areas” (creeks, rivers, lakes, sinkholes, ag drainage wells, etc.) unless a 50-foot grass buffer with no manure on the buffer



Direct and Indirect oversight

- **Direct**

- Manure management plans limiting both manure and commercial nutrient applications to N crop uptake and Phosphorus Index
- Nutrient management plans required for NPDES permits under the Clean Water Act
- Manure applicator certification



Direct and Indirect oversight

- **Direct**

- Restrictions on manure on snow or frozen ground

- Liquid manure from a confinement operation with an MMP
- Between Dec. 21 & April 1 (snow) and between Feb. 1 & April 1 (frozen), only apply if there is an emergency need due to unforeseen circumstances including unusual weather or equipment failure

- Restricting application rates



Direct and Indirect oversight

- **Direct**

- Manure application on soybean

- Limit of 100# N/acre on land in an MMP to be planted to soybean
- Complete ban on May 14, 2013 if by Nov. 14, 2012 EPC reviews all available scientific information and publishes notice in the Admin. Bulletin that a complete ban will be put in place

- Conditions for receiving government grants or assisted financing (e.g., EQIP)



Direct and Indirect oversight

- **Indirect**

- Increased taxes on nutrients
- Specialized equipment and training
- Locks and other protective measures to discourage theft and misuse
- Railroad/transportation issues
- Opposition to “large” farms and certain types of manure storage



What's coming?

- Additional training and certification will likely be required
- Additional taxes levied on nutrients which could discourage use
- More expensive certification and application fees
 - How is this money being used? Is the increased paperwork truly having an impact?



What's coming?

- Additional products required, such as N stabilizers for use with manure; Some stabilizers may help but do they have broad-based merit?
- Additional requirements related to the kind of equipment needed to apply nutrients; more added expense for farmers
- Concern about connection between regulators and companies – specific product(s) may indirectly be required but are they proven effective/do they have an impact?



What's coming?

- Some things that may be required:
 - Grid sampling (in Illinois, you can't receive payment from the state department of ag (federal dollars) without grid sampling every four years)
 - Variable rate technology/ applied with calibrated equipment
 - Flow meters
 - Must follow a nutrient management plan
- More and more “strings attached” could really impact the cost of doing business



Water quality

- From a geographical standpoint, where you farm matters
- For example, TMDLs, designated impaired waterways, creeks, and land slope
- Every model calls for either less fertilizer use or taking more nutrients out of the water; both are costly



Real concerns

- Prohibition on fall application of anhydrous ammonia
- Whole farm nutrient management plans/restrictions on nutrient application rates
- Restrictions on tiling and other soil drainage



Real concerns

- More restrictions on manure storage and application/incorporation
- Banning all manure application on snow or frozen ground
- Banning use of N (manure or commercial) on soybean ground



Who can regulate?
Who can have an impact?



EPA

- Delegated authority under the Clean Water Act to DNR, but retain broad authority to enforce the CWA , including fines
- Growing presence in Iowa, particularly on medium-and large open feedlot CAFOs and combination confinement and open lot CAFOs (for example, flyover inspections)
- Inspection and enforcement methods



EPA

- Be prepared for an EPA inspection
 - Livestock production areas
 - Manure storage areas
 - Feed storage areas
 - Other areas of the farm such as fuel storage
 - Books and records
 - Potential receiving water bodies
 - Accompany inspectors



Iowa Legislature

- Adopts legislation directing DNR & EPC regulation, as well as for Iowa Dept. of Ag
- Answer to voters; often pressured to enact additional regulations
- Turnover in chambers every two years can mean a moving target for farmers



Iowa Department of Ag & Land Stewardship

- Iowa Ag Secretary elected every four years so influence can change dramatically based on who is in office
- Regulate commercial fertilizer storage and sales
- Regulate “dry animal nutrient product” under Iowa Code Chapter 200A – sales of dry manure that is the MMP for qualifying dry manure livestock and poultry operations



Iowa DNR

- Responsible for implementing legislation and enforcing regulations as adopted by EPC
- Review and approve manure management plans for confinement operations and nutrient management plans for open feedlot operations as required under the Clean Water Act
- Sometimes different interpretations from Iowa DNR staff; can cause confusion
- Also different interpretations on how federal rules apply at state/local level



NRCS

- Focus on voluntary efforts
- Can't directly mandate/regulate but can indirectly influence (for example, requiring specific nutrient management protocols in return for qualifying for conservation payments)



FSA

- Can't directly mandate/regulate but can indirectly influence by withholding federal farm program payments for failure to comply with conservation plan



Iowa Environmental Protection Commission

- Nine-member body appointed by the Governor & confirmed by the Iowa Senate
- Takes all final action on DNR rules and contested cases
- At least 3 members must be farmers actively involved in grain and livestock farming
- Has become increasingly partisan
- Concern about EPC action usurping Iowa legislature



Call to Action

- **Be knowledgeable** -- Know who has influence and control; focus on influencing the influencers (because those who don't farm are!)
- **Be present** -- Provide input (legislative visits to “the Hill,” submit comments/speak on proposed rules)
- **Be involved** – join and participate in your chosen farm organization (they can help you amplify your voice)



Questions/Discussion

