

**PENNSYLVANIA NUTRIENT  
MANAGEMENT AND MANURE  
MANAGEMENT MANUAL  
PROGRAM**

**Act 38 and Chapter 91**

**ADMINISTRATIVE  
MANUAL**

**Josh Shapiro, Governor**

**Richard Negrin, Secretary  
Department of Environmental Protection**

**Russell Redding, Secretary  
Department of Agriculture**

**Douglas Wolfgang, Executive Secretary  
State Conservation Commission**

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**DEVELOPED BY THE STATE CONSERVATION COMMISSION**

## **PREFACE**

This manual has been developed to provide guidance to conservation districts that are involved with the everyday decision making in the administration of the Nutrient Management Program for the Nutrient and Odor Management Act (Act 38) and the Manure Management Manual under Chapter 91.

The guidance is called for by the Nutrient Management Program and Manure Management Program delegation agreement.

The intended use of this manual is to provide uniformity and consistency in the administration of the programs under the delegation agreement. Unless prior written approval has been obtained from the State Conservation Commission (SCC) and/or the Department of Environmental Protection (DEP), departures from the policies or procedures described in this manual are not recommended.

The staff of the SCC/DEP is available to provide additional guidance and to interpret various policy issues of the programs. Staff of the SCC/DEP includes regional nutrient management and program staff for the SCC, assigned staff from the DEP, assigned staff from the USDA Natural Resources Conservation Service (NRCS), and contracted staff from the Pennsylvania State University (PSU) Cooperative Extension. This manual mainly deals with administrative matters. A separate Technical Manual covers technical issues.

This manual may be revised as needed. All revisions to the manual will be initiated by the SCC/DEP and SCC approval will be requested for policy matters. Notices describing all manual revisions and instructions for incorporation of the described revision(s) will be distributed to all known manual recipients. A listing of all revisions made to the manual should be retained in the Appendices of the manual.

The SCC may be reached at 717-787- 8821 concerning this manual.

## **INTRODUCTION**

In May 1993, the General Assembly enacted the Nutrient Management Act (Act-6 or NMA) to primarily establish criteria, nutrient management planning requirements and an implementation schedule for the application of nutrient management measures on certain agricultural operations which generate or utilize animal manure.

The NMA also provided for the development of an educational program by the SCC in conjunction with the Penn State Cooperative Extension and the Pennsylvania Department of Agriculture (PDA).

In addition, conservation districts will provide outreach to the agricultural community on the proper utilization and management of nutrients on farms to minimize pollution of surface water and groundwater.

The NRCS will continue in its technical assistance role for districts.

On July 6, 2005, the General Assembly enacted the Agriculture, Communities, and Rural Environment (ACRE) legislation. Part of the ACRE legislation was updating the Nutrient Management legislation and the addition of the new Odor Management legislation known as Act 38 of 2005.

In July 2009, PDA staff that was currently working in the Act 38 program was transferred to SCC staff due to reorganization efforts. All reference to PDA staff in the Act 38 regulations now refers to SCC staff.

In 2010, DEP updated the manure management manual land application supplement (MMM) under Chapter 91, as part of The Clean Stream Law.

The nutrient management program's main goal is to minimize surface and groundwater nutrient loads from agricultural operations and to increase farm profitability through proper nutrient management. We must work closely with the agricultural operations to promote the agricultural and environmental benefits of proper nutrient management practices.

The SCC/DEP/NRCS are also working to provide affordable and convenient financing for the existing agricultural operations to develop and implement proper methods, practices, facilities and techniques for the utilization and management of nutrients on the farm. This can be achieved by ensuring the quality, consistency and effectiveness of nutrient/manure management plans particularly where the farm operations pose a threat of nutrient pollution to the surface and groundwater. Also, the SCC/DEP will support advances in nutrient management and methods to promote alternate beneficial uses of animal manure.

There may be some confusion about the requirements that apply to the farm community relative to management of nutrients. Farmers may believe that Act 38 exempts them from other requirements. Please be aware that all farms that generate or utilize manure must, at a minimum, be following the MMM guidance as provided under Chapter 91.

The public may expect other requirements to be applied to respond to offensive farm practices. A provision of Act 38 that made it acceptable to the agricultural community was the preemption of local ordinances that are inconsistent with the Act 38 regulations. The Act prevents local governments from enforcing local ordinances on farmers that are more stringent than Act 38.

Another concern is air quality. Some farm operations and practices cause odors that offend surrounding residents. The Odor Management provisions of Act 38 are covered under a separate Odor Management Administrative Manual. Please note that the SCC handles all Odor Management Issues, not delegated to CDs.

Under the Right To Farm Law, normal farm practices cannot be restricted. Some Concentrated Animal Operations (CAOs) may be beyond the definition of normal farm practices. However, with proper technology, good management and consideration for neighbors, most farm operations can be conducted without undue offense to neighbors. Local land use planning is another way to preempt farm and community conflicts.

The requirements of Act 38 and Chapter 91 regulations were designed to minimize water quality impacts. Compliance with the Act 38 regulations will, in most cases, meet other applicable state and federal requirements, such as The Clean Streams Law and federal Concentrated Animal Feeding Operation (CAFO) requirements. Not complying with Act 38 may subject the farm owner or operator to these additional requirements.

When water quality problems are caused by farming practices, compliance with other state and federal requirements may be necessary.

There are separate DEP regulations for CAFOs and any questions regarding the CAFO program must be referred to DEP. Fact sheets on CAFOs are available to help provide this information to the farm community and others.

Act 38 allows for the SCC to delegate administration of the program to county conservation districts that have an adequate program and sufficient resources to accept and implement this delegation. To make this program successful, the SCC, the Cooperative Extension Service of the Pennsylvania State University, and DEP are fully supporting the conservation districts in their role of administering and implementing Act 38 and the MMM Program.

The SCC has the lead role in providing outreach on the proper utilization and management of nutrients on farms, to develop and provide technical and financial assistance for nutrient management and promulgating regulations. SCC, DEP and the Cooperative Extension Service of the Pennsylvania State University play the primary support role to Act 38.

Detailed responsibilities of various agencies are provided in a Memorandum of Understanding which may be referred to in the Appendices of this manual.

As a point of reference, this manual is broken into Single and Multi-County Delegation responsibilities.

# Act 38 / Chapter 91 Program Administrative Manual

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# **CHAPTER 1**

## **GENERAL ACT 38 AND MANURE MANAGEMENT MANUAL PROGRAM INFORMATION**

## CHAPTER 1 - GENERAL PROGRAM INFORMATION (Details)

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## **I. Guidelines for Administering the Nutrient and Odor Management Act (Act 38) and Chapter 91 (Manure Management Manual) Technical and Administrative Programs (Delegation Agreements)**

### **A. Background**

1. The State Conservation Commission (SCC) and Department of Environmental Protection (DEP) established a Technical Assistance Funding Program to facilitate local administration by Conservation Districts (districts) of selected duties under the Nutrient and Odor Management Act (Act 38), Commercial Manure Haulers and Brokers (Act 49), and Manure Management Manual (Chapter 91). Each district will enter into a delegation agreement with the SCC/DEP that describes the technical and administrative duties required of each party. The administrative manual, technical manual and associated guidelines provide specific details for program implementation.
2. Section 2.b.(3) of the delegation agreement states that “The Commission shall provide financial assistance to the extent funds are available, to the District for execution of the duties and responsibilities described herein, according to the “Pennsylvania Nutrient Management and Manure Management Manual Program, Act 38 and Chapter 91 Administrative Manual.” The SCC will annually allocate available funding, including DEPs portion for Chapter 91 activities, according to its priorities, and the projected workload of each district. This document together with the following are the guidelines for providing financial assistance to districts:
  - a. The Nutrient Management Delegation Agreement Proposal Form (Chapter 5, Appendix III);
    - i. Before beginning activities for which claims will be made, each district must agree to enter into a delegation agreement with the SCC/DEP.
    - ii. Upon approval, the proposal form and associated budget become binding documents within the delegation agreement to provide funding.
    - iii. Payment for duties performed under a delegation agreement will be made according to the provisions of the agreement and associated annual budget.
  - b. The Technical Assistance Funding Program Statement of Policy (Chapter 5, Appendix II);
    - i. The Statement of Policy provides the formal framework for the SCC/DEP to provide funding to districts for technical and educational assistance.
  - c. The current SCC Funding Guidelines;
    - i. The SCC Funding Guidelines establish funding amounts and priorities. These guidelines may change from fiscal year to fiscal year and are sent out each year with the request to send in budget proposals.

The administrative manual provides needed details and links the associated programs together.



## **B. Delegation agreements**

Districts must have entered into a written delegation agreement with the SCC/DEP in order to receive technical assistance funding. The delegation agreement specifies the duties that are required of the district, and obligates the SCC/DEP to provide financial assistance to the district for execution of the delegated duties. The delegation agreement also states that program administration must follow the established guidelines. The term of the delegation agreement is five years, with a budget proposal form submitted annually.

## **C. Nutrient Management and Manure Management Program Delegation Agreement Proposal Form**

### **1. Application for Funding**

The Nutrient Management and Manure Management Program Delegation Agreement Proposal Form (Attachment E of the Delegation Agreement) will serve as the initial application for funding under the Technical Assistance Funding Program. The SCC/DEP will assign deadlines for submission of the Proposal Form, which will initiate the review and approval process. The proposal must be signed by an authorized representative of the district. The Proposal Form must be submitted annually revising subsequent years of the delegation agreement. The following information must be included in the proposal form:

- a. Delegation Option;
- b. Time period covered by the proposal;
- c. Technical staff that will be working for the Nutrient Management and Manure Management Programs;
- d. Narrative description of the proposal;
- e. Budget proposal (more detail in #2 below);
- f. Authorization page signed by an authorized representative of the district.

### **2. Budget**

- a. The Proposal Form will include a budget that describes salary and benefits, travel costs, equipment costs, administrative costs, and other allowed costs for each delegation agreement. More specifically:
  - i. The budget worksheet can only include budget line items for approved budget categories.
  - ii. Administrative costs are capped at 25% of the annual allocation to the district.
  - iii. Approved “administrative” costs include:
    1. Clerical assistance;
    2. Managerial oversight;
    3. Postage;
    4. Phone;
    5. Legal expenses;
  - iv. Approved “other” categories must be listed as one of the following:

1. Training;
  2. Materials;
  3. Supplies;
  4. Certification;
  5. Office rent;
- b. Upon approval by the SCC/DEP, the budget will be used for processing reimbursement claims, auditing and, if requested, advance payments. Budget modifications to an approved budget may be made between categories of up to 10 percent of the total annual budget amount. Budget modification requests must be submitted in writing and approved prior to expenses being incurred.
3. Multi-county arrangements - Districts may submit proposals and budgets for a multi-county delegation agreement. One district will serve as the host district and will carry out the major program duties for both the host and the associate district. The associate district may complete the "Associate Counties Memorandum of Agreement of Participation" (Chapter 5, Appendix III) which assigns the annual allocated funding to the host district. The "Associate Counties Memorandum of Agreement of Participation" will be attached to and become part of the delegation agreement. The associate district may retain its grant money. If an associate district retains a portion or all of its grant money, it must obtain approval from the SCC/DEP for a separate proposal and budget. The approved proposal(s) and budget(s) determine how much money is available to each district and to which district payment will be made.
  4. Approval of Funding -- For the first year of delegation agreement funding, final approval will be given to the proposal, budget and delegation agreement when all the parties of the delegation agreement and the SCC/DEP sign the signature page of the agreement. For years two (2) through five (5), the district(s), the SCC and DEP will give approval to the proposal and budget. After approval of the delegation agreement and funding, the district will be eligible for reimbursements and advance payments. The district will not be reimbursed for expenses unless the approvals of funding are obtained.
  5. The "SAP" document number that is assigned by the comptroller's office for the first year of the agreement will be maintained throughout the life of the delegation agreement. The "SAP" document number is used for identification and payments under the state system.

#### **D. Statement of Policy**

The Technical Assistance Funding Program Statement of Policy establishes the rules under which technical assistance funding is provided to a district. The policy includes the purpose of funding, general requirements, allocation of funds, application procedures, reimbursement procedures, advance payments, allowed expenses, reporting and funding from other programs. Districts will obtain funding through delegation or grant agreements. The Statement of Policy will work with the agreement, funding guidelines, proposal form and budget to cover

the bulk of funding administration.

#### **E. Funding guidelines**

The SCC/DEP will establish funding guidelines for each program year. The SCC/DEP will allocate a total amount of money that will be available for the technical assistance program, and will assign the priorities for the money.

#### **F. Payment provisions**

1. General provisions - The formal reimbursement rules for performing program duties are contained in the delegation agreement. The proposal and budget for each year will be the basis for reimbursement, and will be an attachment to the agreement. Claims will be submitted to the SCC/DEP within 25 days of the end of each quarter. The SCC may/will suspend payment processing to a district until all program reports and agreement conditions are met.
2. Advance payments - Advance payments may be requested in accordance with the agreement and the Statement of Policy. An advance payment covering the first quarter of each year may be requested. Program money must be placed in an insured, interest-bearing account, and interest must be credited to that fund. Claims may be filed for the first and second quarters. Expenses for the third quarter will be submitted, but no payment will be made until final claims are submitted at the end of the fourth quarter. A final yearly payment will be made after balancing claims and money provided.
3. Multi-county payments - Multi-county payment authority will be determined by the "Associate Counties Memorandum of Agreement of Participation" which will be attached to the delegation agreement. If an associate district retains payment authority, it will receive payment for duties performed up to the amount of its annual grant from the SCC. To receive payment, it must obtain approval for a separate proposal and budget. The host district will receive payments for duties performed according to the approved proposal and budget up to the total amount of annual allocated funds authorized by the associate district(s).

## **II. Financial Assistance and Plan Development Assistance**

#### **A. Financial assistance**

One integral component of the Nutrient and Odor Management Act program is the availability of financial assistance to program participants for Act 38 Nutrient Management Plan (NMP) development and implementation. If funding is available, it will be provided by the State Conservation Commission (SCC) in coordination with districts and other cooperating organizations.

#### **B. Plan Development Incentives Program**

The Plan Development Incentives Program (PDIP) provides a one-time cost-share payment to cover a portion of the cost incurred by a program participant for NMP development. If funding is available, it will be provided by the SCC in coordination with districts and other cooperating organizations.

### **III. Review of Plans Developed by Conservation District**

Plans and plan updates and/or amendments developed by district personnel will be reviewed and approved consistent with one of the following options:

#### **A. Reciprocal agreement for delegated conservation district review**

Plans developed by district personnel may be submitted to a publicly certified nutrient management specialist employed by another district for technical review. Two or more districts may enter into a reciprocal cooperative agreement (Chapter 5, Appendix IV) whereby they will each review and comment on the others' plans. The district board of the county where the operation is located will act on the plan for approval or disapproval. Under this type of arrangement, specialists would be allowed to devote part of their time to work on plans from outside their area. Reciprocal agreements must be submitted in writing to the SCC for approval, or follow a sample agreement approved by the SCC.

#### **B. SCC review**

Plans developed by district personnel without a reciprocal agreement may be submitted to the SCC, and reviewed by the SCC or its designated entity.

### **IV. Nutrient Management Specialist Certification Revocation**

The Nutrient Management Specialist certification regulations developed by the Pa. Department of Agriculture (PDA) allow for PDA/SCC to deny, suspend or revoke the certification of a specialist. This action would only be carried out when the specialist has continually shown negligence, falsification, or incompetence in carrying out the provisions of the Act or the regulations. PDA/SCC has developed a policy to be followed in determining if a particular specialist should have his/her certification revoked. For more information related to the revocation of a specialist's certification, contact the certification and education specialist at the SCC.

### **V. Evaluation of District Administration of Delegated Responsibilities**

- A. The SCC is assigned the responsibility of administering the Nutrient Management Program and assists DEP in the implementation of the Manure Management Program. The SCC coordinates the Act 38 activities while DEP coordinates the National Pollutant Discharge Elimination System (NPDES) Permit Program (Chapter 92) and Chapter 91 activities. DEP is responsible for developing and administering procedures for the delegation of portions of its program responsibilities to districts.
- B. Upon execution of a delegation agreement between SCC/DEP and a district, SCC/DEP will exercise the overall program supervision through periodic program evaluations of district performance under the terms of its agreement. One of the objectives of the evaluations is to develop and maintain a strong level of cooperation and interaction between the SCC/DEP and the district.
- C. The program evaluations provide a good opportunity for one-on-one training for district staff. Comments provided by district staff on the policies and procedures of

the program will be used to monitor program effectiveness and make necessary administrative improvements.

- D. A written report for the program evaluation will be generated. SCC/DEP staff will work with the district staff to improve any deficiencies that are identified.

## **VI. Delegation Performance and Certification:**

### **A. Major Output Measures**

There are many duties or responsibilities under the delegation agreement for the Act 38 and Chapter 91 programs that are requested of conservation districts to perform. Not all duties and responsibilities under the delegation agreement require Act 38 Nutrient Management Specialist certification. Listed below are the major output measures of the delegation agreement along with who can perform these functions.

1. Educational/Outreach Activities – All experienced and knowledgeable district staff can perform.
2. Training activities – district staff that have experience and knowledge can perform, but certified NM staff is recommended.
3. CAO determination – Only certified NM staff can perform or verify.
4. CAFO guidance – All district staff that have experience and knowledge can perform.
5. Noticing CAFO plans in the Pa Bulletin - All district staff that have experience and knowledge can perform, SCC recommends certified NM staff
6. Act 38 NMP reviews; New NMPs, Amendments, Updates, Yearly Plan Submissions – Only certified NM staff can perform.
7. Act 38 NMP action recommendations to the district board of directors (to approve or disapprove) - Only certified NM staff perform.
8. Act 38 Manure Storage Waiver requests - Only certified NM staff can perform.
  - a. Recommendation to board of directors needs to come from certified staff, but other staff could be involved with arranging site visit meeting, etc.
9. Act 38 BMP Implementation Extensions - Only certified NM staff can perform.
  - a. Recommendation to board of director from certified staff, but other staff could be involved with review.
10. Act 38 On-site status reviews – district staff that have the experience and knowledge of the program can perform, SCC recommends certified NM staff.
11. Act 38 and Chapter 91 complaint investigations – district staff that have the experience and knowledge can perform, SCC recommends certified NM staff.
12. Technical Assistance – district staff that have the experience and knowledge can perform.
13. Financial Assistance – district staff that have the experience and knowledge can perform.
14. Filing and retention of records - All district staff that have experience and knowledge can perform.
15. Quarterly reporting - All district staff that have experience and knowledge can perform.

16. Referrals to other agencies - All district staff that have experience and knowledge can perform.

## **VII. Biosecurity**

- A. It is important for district personnel visiting agricultural sites to understand and follow biosecurity procedures and strictly adhere to the biosecurity plan in effect on the property.
- B. In addition, under Act 125 of 2010, enacted on November 23, 2010, district employees could be charged with trespassing if they do not follow the landowner's posted biosecurity protective measures when they are within the landowner's posted agricultural biosecurity area.
  - 1. District are encouraged to have their own Board approved Biosecurity Plan. If the district does not have an approved plan in place, district personnel should adhere to the following:
- C. **Adhere to the following prior to conducting any visit, inspection or survey:**
  - 1. Unannounced inspections are permitted as part of the district complaint inspection response, and are at times necessary. If possible, contact the property owner or manager before arriving on-site to determine what biosecurity measures are used for that property. District personnel must follow the agricultural biosecurity measures prescribed for the site. If the biosecurity measures at the property are unknown to you, every effort should be made to contact the operator or the person in charge upon arrival.
  - 2. Make sure vehicle is routinely cleaned inside and out, including trunk space.
  - 3. If possible, carry in your vehicle: a clean change of clothes; tyvec coveralls, disposable coveralls, or laundered coveralls; rubber over-shoe boots or disposable booties; disposable gloves; disposable hair nets or hats; several trash bags; paper towels; bucket; scrub brush; hand sprayer; water source; disinfectant; alcohol wipes; and anti-bacterial soap or hand sanitizer.
  - 4. Always understand your district biosecurity requirements for the type of property you are visiting, and if possible know if the property owner has special or unique requirements before arriving.
  - 5. Ensure all vehicles, sampling equipment, and materials brought onto the site are in clean and sanitary condition.
  - 6. Staff taking other district employees, interns, or other interested parties who are not familiar with the district biosecurity policy will advise them of all appropriate biosecurity measures needed for the visit and ensure the protocols are followed.
- D. **Upon arriving at any agricultural property:**
  - 1. Keep windows closed and always try to park in a clean area away from animals, livestock handling areas, waste disposal areas, feed storage areas, and when possible do not drive through manure, run-off, or animal concentration areas. If vehicle travel around the facility is necessary, try to use on-site vehicles.
  - 2. When arriving at a site, check for posted notices of agricultural biosecurity areas. For example, the notices may be posted at the driveway entrance, along the driveway, around the property, at kennels, and on buildings housing

animals. Stop and read the requirements on the posted notice for all agricultural biosecurity areas and do not enter unless you can fulfill the requirements.

3. If there is a posted biosecurity requirement, determine whether you have the tools, supplies, and equipment required by the landowner or operator, to enter the premise. If you are unable to fulfill the posted biosecurity requirements, or are unable to obtain permission to enter beforehand leave the site and contact your manager or appropriate agency.
4. Ensure you understand your district biosecurity requirements for the type of activity you are conducting and facility you are visiting.
5. Do not access any areas that you do not have authority to enter. Contact your manager or appropriate agency if there are any questions.
6. Put on clean, waterproof boots that can be disinfected or use disposable boot covers. Even at facilities that do not require such footwear, rubber boots or boot covers should be worn. Plastic boot covers should only be used for and are only suitable for short visits.
7. If visiting low risk areas of the farm away from animals and agriculture production areas, such as the farm office, home, or shop and if acceptable to the farm owner and/or operator, clean work shoes/boots/footwear is acceptable.
8. Clean clothing, coveralls, or disposable coveralls should be worn at each facility where staff conducts inspections of the production areas or fields at an operation. Clean clothing also applies to headwear, such as ball caps or hard hats.
9. When inspecting livestock facilities, do not visit more than one operation with the same animal type per day if possible. If known, visit the low-risk operation first and graduate toward higher-risk operations. Farm visits are not limited to one operation per day if the facility does not have livestock or if the visit is strictly for education and outreach with no inspection of the operation's production areas or other locations where livestock are present.
10. Unless necessary, do not enter the animal housing or feeding areas. When inspecting livestock areas start with young stock and move to older animals. Avoid walking through manure or feed. Avoid sick animals unless it is necessary.
11. Always wear disposable gloves when handling food, feed, plant or animal materials. Bag all worn garments after use and if possible, dispose at the facility.
12. Use clean sampling equipment when collecting samples and clean equipment between samples. Ensure samples are bagged and properly identified prior to leaving collection area.
13. Any equipment that comes into contact with food, plant or animal material should be cleaned and sanitized between establishments or between multiple locations at a single facility.
14. Wash or sanitize your hands upon arrival and before leaving the site. Ask the owner if access to water is available at the facility for hand washing and/or disinfection.

**E. Prior to departing an inspection, survey, or visit:**

1. Clean all equipment prior to placing back in vehicle.
2. Place any samples collected into an appropriately protected container.
3. Before re-entering your vehicle, remove and bag, boot covers and disposable coveralls for disposal or clean and disinfect rubber boots with a commercial disinfectant or bleach. It is extremely important to remove all manure, mud, debris, etc., from your entire boot prior to disinfection. Organic matter severely compromises the effectiveness of disinfection products. If reusable coveralls were used, remove and separately bag them. Wash coveralls before using them again.
4. All disposable coveralls, boots, gloves, hairnets, paper towels, etc., should be disposed of at the site, if possible. If not, such materials must be placed in a garbage bag and sealed until they can be properly disposed of at an appropriate location off-site.
5. Segregate dirty equipment and supplies from clean equipment and supplies to avoid cross-contamination. When cleaning or sanitizing equipment, coveralls, over-shoe boots or any other materials, do so in such a manner as to ensure no cross-contamination occurs and to ensure the cleaning or sanitizing agent does not cause damage to plants or animals at the location.
6. Clean hands with sanitizing wipes or with warm, soapy water.
7. Visibly check vehicle for “hitch-hiking” pests and other materials. Be sure to remove before leaving.
8. For cleaning your vehicle, follow your district biosecurity protocol, however if your vehicle is visibly dirty from your visit, you should clean the tires before departing and go directly to a car wash.

**F. When entering designated quarantine areas:**

Contact your manager or the SCC regional representative for instructions before entering. Depending on the nature of the quarantine you might not be able to obtain approval to enter. If permission to enter is obtained, all requirements must be complied with

**G. Disinfection Products and Supplies**

1. Disinfectants:
  - i. The following types of product classes and solutions may be used to disinfect boots, equipment, vehicle tires, or other appropriate surfaces before, during, and/or after farm site visits/inspections. The following products are effective against a broad range of disease-causing organisms when used properly and effectively. Employees shall adhere to all label instructions, warnings, etc. for use of a given product. Trade names are listed where applicable and are for information and reference use only and are not intended to suggest use of a specific brand.
    - a. Hypochlorite (bleach) – minimum bleach solution of 10%
    - b. Chlorhexadine –common trade names Nolvasan, Virosan
    - c. Iodophors – common trade name Betadyne
    - d. Phenols – common trade names Lysol, Environ, One-Stroke
    - e. Ammonium/Alcohol blends – common trade name Discide
    - f. Oxidative – Virkon



2. Supplies:

- i. Clean rubber boots or new disposable boot covers
- ii. Clean change of clothes or coveralls (washable or disposable)
- iii. Appropriate disinfectant chemicals or solutions
- iv. Water (minimum 3-5 gallons)
- v. A bucket or tray to contain disinfectant
- vi. Long-handled scrub brush
- vii. Hand sprayer to apply disinfectant to boots, tires, other surfaces
- viii. Clean bags for trash disposal or storage of items to be cleaned
- ix. Antibacterial soap, wipes, and/or hand sanitizer
- x. Paper towels
- xi. Disposable hairnets

**H. Enhanced Biosecurity Protocols**

For animal disease outbreaks, such as dangerously transmissible disease or zoonotic disease outbreaks, the Secretary of Agriculture and State Veterinarian will determine what type of enhanced biosecurity protocols are necessary should district staff have an emergency need to visit the animal operation during the outbreak. During these incidents, PDA will develop specific guidance for industry, district, and PDA employees

# CHAPTER 2

## GENERAL PROGRAM DUTIES

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## **I. Education / Outreach Programs**

### **A. General education / outreach program background**

1. There are several goals of the education program which involve the CDs as part of their delegated duties under the Act 38 and Chapter 91 programs. The district will provide outreach and educational efforts to a number of different audiences. Objectives for each audience may vary. Goals may include general awareness for the public and cooperating agencies; programs targeted with specific information for livestock, equine and poultry producers, etc.; informing local government leaders; or technical support and coordination with commercial nutrient planners.
2. Specific efforts should be made to obtain Concentrated Animal Operation (CAO) participation in the Act 38 program and all other operations in the Chapter 91 program.
3. One of the major strengths in the development of the Act 38 and Chapter 91 programs has been the strong coordinated effort between agencies and the agricultural community. There are many benefits to using a coordinated approach to develop and deliver the education / outreach programs, including access to wider audiences; the opportunity to gain expertise and resources from other professionals or groups; and/or the availability of additional funding sources to address resource concerns.

### **B. Coordination of effort**

1. Improved program coordination among agricultural and environmental agencies and local groups will help gain support from the agriculture community and the general public. This may lessen barriers to effective educational and technical assistance efforts. Districts are encouraged to seek assistance from other groups or agencies in areas where the district may not have expertise such as agronomic practices, specific engineering solutions, educational program planning or evaluation, etc. An annual planning meeting is not required, but is recommended. Coordination can occur in other manners such as informal one-on-one or small group meetings for discussing education / outreach efforts.
2. The district is encouraged to hold an annual meeting with local representatives of relevant agricultural and environmental agencies in order to develop a unified educational outreach effort to address the Act 38 and Chapter 91 programs. This meeting could take place as part of another scheduled meeting, such as the district annual planning meeting. Agencies may include: SCC, PSU Cooperative Extension, PDA, DEP, NRCS, USDA Farm Services Agency, Pennsylvania Farm Bureau, Pennsylvania Grange, Pennsylvania Farmers Union, dairy and breeding cooperatives, local DHIA groups, crop management associations, crop consultants, Young Farmer and FFA chapters, vocational agriculture programs, agricultural lenders, feed and fertilizer dealers, veterinarians, watershed groups, and other local agricultural and environmental agencies, organizations and groups. It is suggested that these local stakeholders and the district develop a general strategy or outline a plan of action to train and educate the local community. It may be appropriate for the PSU Cooperative Extension staff or a local farm organization to call the meeting together and facilitate this coordination effort. An outcome of this meeting may be to identify the involvement of each group in reaching the programs

educational outreach objectives. A review of any Memorandum of Understanding (MOU) documents between partnering agencies / organizations may be warranted to clarify areas of responsibility.

### **C. Local program delivery**

Local cooperating agencies have their own staff resources that may be available to assist in providing a coordinated approach to delivering education / outreach program information to their existing clientele and others. Combining the efforts of these resource people will reduce the amount of time required for education / outreach by districts with limited staff, as well as, provide for a more diverse audience to hear the message. The district is encouraged to work with local representatives to encourage education and outreach efforts identified in the annual planning meeting. Activities delivered by these local agencies may include efforts such as specific educational meetings concerning technical issues related to nutrient / manure management and/or odor management, general awareness publications and presentations, workshops and field days. Local agencies may request the assistance of statewide or regional program staff to assist with local educational efforts.

### **D. Specific district responsibilities**

- a. **The district will keep a record of the following required output measures as provided for in the program quarterly report form in PracticeKeeper. (Attachment H)** Documentation of the annual education planning meeting with cooperating parties, if held.
  - b. Documentation or evidence of sponsoring, co-sponsoring or participating in at least two informational, educational or training programs per calendar year, serving the area covered under the delegation agreement.
  - c. Documentation or samples of three educational outreach or awareness efforts per calendar year where the district provided appropriate information to farm operators and/or certified Nutrient Management Specialists serving that area. Examples may include copies of newsletters, newspaper articles, social media posts, presentations to groups, television or radio programs or public announcements.
  - d. Documentation if the district provided information on Act 38 financial assistance programs, if available, supporting NMP development and implementation and advise operators of alternative funding sources for NMP or Manure Management Plan (MMP) development / implementation, if available.
1. The District, consistent with the Nutrient Management Program Compliance Strategy (Chapter 4), will identify operations which the district believes may be CAOs, and target program outreach and information to these individuals. The district will retain on file a copy of the animal density status for all those operations that they identified as potential CAOs. The district will assist these operators in determining their animal density status (see Chapter 2, section II below).
  2. The district will assist those operations that do not fall under the Act 38 umbrella with obtaining a MMP, if requested. At the minimum, the CD will provide information, preprinted materials, etc. but CD's are not required to actually write a

MMP, unless the district BOD decides they want to offer that service. The district will follow DEPs model agricultural compliance strategy or a district specific policy that was approved by DEP.

3. The district will provide available preprinted resource materials (e.g. soils maps, manure management manuals, facts sheets, etc.) to all nutrient management specialist and others requesting information.
4. The district will forward all nutrient management technical assistance requests, not to be handled by district staff, to the appropriate agencies for action or follow-up.

#### **E. Multi-district arrangements**

Host and associate districts will be involved in all aspects of the education / outreach program. This will include:

1. The annual coordination meeting.
2. Participating in at least two informational, educational or training events.
3. Three informational/educational efforts.
4. Answering questions concerning Act 38 and Chapter 91.
5. Providing resource materials to farming operations, nutrient management specialists and other interested parties.

## **II. Concentrated Animal Operation (CAO) Determination**

### **A. What operations are affected?**

1. **General description.** Act 38 requires all CAOs to develop and implement an approved NMP under the Act. CAOs are defined as agricultural operations where the animal density exceeds two animal equivalent units (AEUs) per acre of land suitable for manure application on an annual basis. To be considered a CAO, the operation must have a minimum of 8 AEUs. An AEU is 1,000 pounds of live animal weight on an annualized basis. Land suitable for manure application can be owned or rented, but must be under the operator's management control. Farmstead areas and forest land are not to be included as suitable land. The density and suitable cropland criteria is only used to determine if an operation is a CAO, and does not prevent the development or expansion of an operation, or the spreading of manure to other associate areas. For more information see the Pennsylvania Nutrient Management Technical Manual.
2. **Specific information.** The Act 38 regulations contain two definitions which describe what is considered as an operation for plan development under the Act:
  - **Agricultural operations** – “The management and use of farming resources to produce crops, livestock or poultry.”
  - **Farming resources** – “The animals, facilities and lands used for the production or raising of crops, livestock or poultry. The lands are limited to those located at the animal facilities which are owned by the operator of the facility, and other owned, rented or leased lands under the management control of the operator of the facility that are used for the application, treatment or storage of manure generated at the facility.”

Note that all equine facilities are part of CAO calculations.
3. The above definitions and the information contained in the Nutrient Management Technical Manual, will assist districts in making CAO determinations.

4. Any other “agricultural operations” or “farming resources” (non-CAOs) that generate or utilize manure are required under Chapter 91 to develop and implement a MMP and/or obtain a water quality management permit or other approval from DEP.

#### **B. Operator responsibility**

1. Any existing operation that qualifies as a CAO or any operation that becomes a CAO after the regulations become effective must develop and implement an approved NMP plan under Act 38. The landowner and/or operator are responsible for making the CAO determination. Contracts which transfer duties from one party to another are a matter to be resolved between the parties. For example, if an integrator owns the animals at the operation and is responsible for the manure, it is still the operator’s responsibility to assure that a proper determination is made, and the manure is handled properly. When specific cases arise, it will ultimately be decided by who has management control of the operation. The operator may seek the assistance of a certified Nutrient Management Specialist, a delegated CD, or other knowledgeable individuals or organizations, but ultimately it is the operator’s duty to determine if his/her operation is a CAO.
2. Non-CAOs that generate or utilize manure are required to develop a MMP under Chapter 91 or obtain a water quality management permit or approval from DEP. The landowner and the operator are jointly responsible for making determinations and having a MMP. Contracts which transfer duties from one party to another are a matter to be resolved between the parties. The landowner / operator may seek the assistance of a certified Nutrient Management Specialist, a delegated CD, or other knowledgeable individuals or organizations.

#### **C. Conservation District responsibility**

1. Delegated conservation districts (CD) are expected to provide accurate information to assist in determining whether an operation is a CAO. This includes what animals are counted and the listing of suitable manure application acreage. District staff will maintain documentation of their assistance in the operations file in the event that issues of concern arise. This could include Con-6 notes or preliminary CAO calculations completed on Penn State Extension’s Ag Facts 54.
  - a. CDs shall assist in identifying new CAO’s and assist in bringing those CAOs into compliance according to the Nutrient Management Compliance Strategy (Chapter 4)
  - b. When a CAO adds land that is suitable for manure application or decreases animal numbers so they are no longer considered a CAO, a final certified commercial NM specialist must prepare the “new” CAO calculation which will be reviewed, verified, and acknowledged by the delegated CD.
  - c. In instances where the operation is “going out of business”, a final certified commercial NM specialist is not needed, but recommended, and the CD can verify that animals are no longer present, etc., if their priorities and schedule allows.
2. Delegated CDs and SCC regional program staff do have the authority to ask for copies of land rental or lease agreements, animal concentration records, etc., to assist in reviewing and verifying the CAO calculation.



3. In instances where the CAO is under some form of enforcement, SCC regional staff will review, verify, and acknowledge the CAO calculation.

#### **D. Information sources**

1. CAO identification is covered in Section 83.262 of the regulations and explained in more detail in the Nutrient Management Technical Manual (NM TM). Section I of the NM Tech Manual assists with the identification of CAO's and Supplement 5 provides the standard animal weights table. The standard animal weights must be used unless other sufficient documentation is provided to support the use of "other documented" weights. The NM Tech Manual contains many additional resources related to CAO identification and determinations.
2. A fact sheet titled, "PA Nutrient Management Act: Who will be affected?" was developed by the PSU Cooperative Extension and can be found on the NM website. This provides a general description of the determination process along with a worksheet and example.
3. SCC Regional staff is responsible for assisting with interpretations or compliance issues.

#### **E. Multi-district arrangements**

Host and associate district(s) will assist operators in determining if animal operations fall under the mandatory provisions of the Nutrient Management Act.

### **III. Concentrated Animal Feeding Operations (CAFOs):**

#### **A. Definition**

1. CAFO (concentrated animal feeding operation) refers to a farm where large quantities of livestock or poultry are housed or in confined feedlots. CAFOs in Pennsylvania are defined as animal feeding operations that:
  - Have more than 1,000 animal equivalent units (AEUs);
  - OR**
  - Are a concentrated animal operation (CAO) with 301 to 1,000 AEUs;
  - OR**
  - Exceed, for a certain animal group, a threshold number established by EPA (examples include 700 dairy cows; 2,500 swine weighing over 55 lbs. each; 500 horses; or 82,000 egg-laying chickens).
2. Flow charts titled "Is my Operation a CAFO" and "Which CAFO Permit Do I Need" are included in this manual Chapter 5, Appendix V. EPA Animal Group threshold numbers are part of the flowchart.

#### **B. DEP Responsibility:**

1. DEP has the primary responsibility to review, approve, and issue CAFO general and individual permits.
2. Note that an Act 38 NMP is part of the CAFO permit that is issued by DEP.

### C. Conservation District Responsibility:

1. The CD will review the NMP according to all the policies and procedures identified in the Nutrient Management Technical Manual. CAFO plans submitted for review are required to be noticed in the Pa Bulletin when they are deemed administratively complete.
  - a. For CAFO NMPs and NMP amendments submitted for action, the reviewing CD or SCC is to use the DEP provided electronic form (*CAFO NMP Public Notice Spreadsheet*) to immediately notify the South-Central Regional Office (SCRO) DEP that an administratively complete CAFO NMP or NMP amendment has been submitted for review. Plans that are deemed administratively incomplete should be returned to the planner/operator. By policy the operation is given 30 days to resubmit a complete NMP, but it should be noted that within those 30 days an operation could be subject to enforcement for non-compliance.
  - b. The DEP SCRO office will then place notice of this NMP in the PA Bulletin.
2. The CD or SCC is not permitted to act on this NMP or NMP amendment until at least 30 days have elapsed since the date the NMP is noticed in the PA Bulletin.
  - a. If a plan writer withdraws a CAFO NMP prior to action by the Conservation District Board (or SCC) when the NMP is resubmitted, it will be treated as a new NMP submission (administrative completeness, etc.) and must be re-published in the PA Bulletin.
  - b. If a plan writer makes significant changes to the CAFO NMP after it was first published in the PA Bulletin, then the CAFO NMP will need to be re-published in the PA Bulletin for another 30-day comment period before plan action can occur. Example of significant changes may include such items as the number of AEU's increasing by more than 10% or the operation not being described correctly in the initial PA Bulletin publication. Additionally, if there is significant public interest in the NMP then the final form of the NMP should be advertised in the PA Bulletin for an additional 30 days.
  - c. If at any time, there is a question on whether a NMP should be re-published in the PA Bulletin, please reach out to the SCC Regional Coordinator to discuss and for a final determination. The SCC Regional Coordinator also may discuss with legal counsel.
3. CD staff should work with DEP regional office staff to perform joint site visits to the CAFO operation. All comments or deficiencies noted during the review of a CAFO plan, by DEP staff, should be sent to the CD reviewing staff or SCC, so all comments are combined into one letter, which will be forwarded to the certified NMS that developed the NMP and the operator. DEP comments should be sent to the reviewing CD or SCC within the 30-day comment period afforded by the PA Bulletin Public Notice.

Once the CD Board of Directors or SCC acts on a CAFO NMP or NMP amendment, the CD or SCC (whomever performed the review) will need to complete the relevant electronic form (NMP "Actions" notice) (Chapter 5, Appendix V) and send that to the DEP SCRO for publication of this action in the PA Bulletin.

#### **D. Multi-district arrangements**

Host districts will perform all the CD functions in regards to CAFO NMPs when certified staff are not retained at the associated district.

### **IV. Filing and Records Retention**

#### **A. Nutrient management plans**

Plans for the categories of operations listed below will remain on file at the district office and will be accessible to SCC staff. An official district file will be maintained for each operation.

1. CAOs
2. VAOs
3. CAFOs
4. Compliance Plans

#### **B. Plan Amendments and Yearly Plan Submissions (Plan Updates)**

A copy of all plan amendments and Yearly Plan Submissions will be kept on file at the district office.

#### **C. Quarantine cases**

A copy of the NMP amendment and any action taken on the NMP due to a contagious disease outbreak shall be kept at the conservation district office / or SCC office and in the individual Act 38 program participants file.

#### **D. Tracking**

A tracking system will be implemented by the delegated CDs or multi-district arrangements. This tracking and the reporting described in Section V. below can be assisted by use of the Practice Keeper program. The Practice Keeper system, at a minimum, will include the following information:

1. Name / location / and contact information of operation;
2. Date the NMP was submitted to the district;
3. Indication if the plan was for a CAO, CAFO, VAO, or compliance NMP;
4. Date an administrative completeness check was completed and status (i.e. OK or plan returned);
5. Date and description of all correspondence, including phone calls, concerning the respective NMP with the plan writer;
6. Date the NMP was approved or disapproved by the CD BOD;
7. Required financial and cost-share assistance information; and
8. Date and reports for on-site status reviews.
9. Date of expiration of the NMP.

#### **E. Delegation agreement termination**

In the event of delegation agreement termination, all files will be turned over to SCC within 30 days of termination.

#### **F. Retention of records**

1. All approved or disapproved NMPs, NMP updates, NMP Yearly Submissions, and

NMP amendments and other program records shall be kept on file at the CD office for as long as the operation is viable and for a minimum of 3 years past the expiration date of the NMP or termination of the operation.

2. Each operator file maintained under Act 38 will include a copy of the most recently approved or disapproved version of the NMP addressing the operation.
  - a. Previously approved and disapproved NMPs which have been superseded by more recently approved versions, shall be retained in the operator's file for at least three years past the date that the next most recent version of the plan was approved. Once the three-year retention date is reached for these outdated plans, they may be purged from the file.
  - b. Once a more recent version of an operator's plan is approved by the district board, the district should indicate on the cover sheet of the now outdated version of the plan, that it is invalid. Also, the district should document the purge date on the cover sheet of the outdated version so that the district can easily know when the outdated version is appropriate to be purged.
3. Copies of all correspondence to the operator or their NM specialist, status review inspection reports, complaint inspection reports, any CAO determinations for the operation, shall also be placed in the operator file.
4. Note page (Con-6), which documents all contacts with the operator by the CD NM specialist, shall be maintained for each operators file.
5. Copies of all setback waivers, implementation extensions, NMP transfers, manure storage certifications etc., shall be maintained in each operators file.

#### **G. Filing organization**

1. All items placed in a file should be in the order of first received at the bottom, last received at the top.
2. All maps, plans, drawings and photographs not secured by a file fastener should be marked properly for identification and associated date and placed securely in a separate folder.
3. Files and information related to complainants should be kept in a separate folder, so that they can be removed when the file is viewed by the public.

#### **H. Right-to-Know Law**

1. As directed by the SCC and DEP, the CD will approve and implement appropriate written policies relating to public access, public comment, conflict of interest and other relevant policies which, in part, will address issues relating to the administration of the programs. The SCC will provide sample policies for the CD to consider in their efforts to develop these guidance documents.
2. More detailed information is contained in the delegation agreement; Attachment C; Right to Know Law.
3. If a request for NMP file information is received:
  - a. For requests made in writing, they are automatically treated as Right-to-Know requests. To make it an informal request the requesting party must within five day of the request send written confirmation that the request is being made informally. Maintain a copy of the change to the informal request. Otherwise, the request should be managed under the Right-to-Know Law and treated as a

formal request.

- b. For informal requests, not being managed under the Right-to-Know Law, advise the requesting party that the NMP files are open to public for inspection and review at the district office during normal working hours and identify those hours.
    - 1. No NMP files or portions of NMP files may be removed from the district office by the requesting party.
    - 2. Explain any costs which may be charged for copying documents and/or charges for personnel costs.
  - c. Schedule the appointment on a day and time convenient to your schedule. Provide an area where the NMP files may be reviewed without unusual disturbance.
  - d. Have requesting party list all documents and other NMP file items that are to be examined. The party may take notes or otherwise duplicate any file materials by a copy machine or their own hands. The district may charge reasonable copying costs. Explain that documents may not be photographed and no audio/visual recording can be done.
  - e. Remove all NMP file materials from the examination area before copying.
  - f. If the number of copies is extensive, inform the requesting party that the materials will be sent, or can be picked up at a scheduled time and date.
  - g. Do not release any materials until payment is made in full. When payment is made, provide a written receipt.
- 4. If an individual or organization requests to view the NMP for the operation, the district should provide the current NMP. If the requestor also asks for past NMP(s), then any of those currently in the district's files should be provided. The district will need to indicate to the individual or group viewing the NMP file that only the most recently approved version is valid for the operation.
  - 5. All approved versions of NMPs retained by the district shall be made available to the public, if requested.
  - 6. Any non-Act 38 files maintained in the NMP file, i.e. conservation plan, may not be available due to limitation on disclosure under Section 1619 of the Farm Bill of 2008.

#### **I. Denying access to files**

- 1. Complaint files - Do not release any information which may disclose the identity of an informant.
- 2. Enforcement action files - If enforcement actions will be or have been initiated by the SCC, access is temporarily denied. The requesting party should be advised that access to these files will be authorized when the enforcement action has been completed.

*Note: Please contact the appropriate SCC Regional Coordinator or the NM Program Director for specific guidance regarding file access; especially, denial of file access.*

**J. Exception for Matters in Litigation:**

1. For NMPs that are under appeal, or if the CD or SCC are involved in any other litigation or enforcement related activity involving a particular NMP, immediately forward any Right-To-Know requests related to these NMPs to the SCC office and follow the advice of the DEP/PDA attorney handling the appeal/litigation.
2. Enforcement actions - If enforcement actions have been initiated by SCC, access may be denied. The requesting party should be advised that access to files will be opened when the enforcement action has been completed. Access will be given in accordance with "Access to files" above.

**K. Multi-district arrangements:**

1. Host CD Duties:
  - a. Maintain the official CD file for operations in both the host and associate district. The host district will forward copies of all information for the file, so the associate district will have an equivalent file; and
  - b. Forward the results of reviews and the relevant written materials to the associate district (e.g., plan reviews, on-site status reviews, setback waivers, implementation delays).
2. Associate CD Duties:
  - a. Forward the results of associate CD decisions and the associated written materials (e.g., plan approvals, amendments, setback waivers, enforcement referrals) to the host district; and
  - b. Maintain a file for the operations with all materials forwarded by the host district.
3. Different filing arrangements can be made but must be approved by the SCC.

**L. Other Record Retention**

1. A copy of all NMP updates, NMP amendments, setback waivers, implementation extensions, transfers, etc. will be kept on file at the conservation district office. These records should be kept in the individual Act 38 program participants file.

**V. Nutrient Balance Sheets (NBS) from Manure Brokers:**

**A. General Requirements**

1. Certified commercial manure brokers in Pennsylvania continue to play an important role in helping Pennsylvania farmers properly distribute manure generated or utilized on agricultural operations. These brokers have various administrative and technical obligations established under the Act 38 program as well as the Commercial Manure Hauler and Broker Certification law (Act 49).
2. All manure exported off an Act 38 participating farm for land application, including a CAFO or a volunteer, is required to have NBSs outlining the proper application of the manure on the importing farms. A NBS must be part of the exporter's Act 38 NMP and must be provided to the importing operation identified in the NMP where land application will occur. A certified Act 38 commercial NMS is authorized to develop NBSs for the exporter to give to the importer to meet Act 38 requirements. However, if manure is being exported through a broker, the

broker is responsible to make sure NBSs are provided to the importing farm where manure will be land applied by the time the manure is transferred. This is a requirement under both Act 38 and Act 49.

## **B. Authority & Submission**

1. Brokers are authorized to write NBSs to meet the provisions of Act 49 if they have obtained Level 2 Broker certification under Act 49. A certified NMS may develop NBSs for a broker to meet Act 49 requirements and therefore may be hired to develop the NBSs on behalf of a broker. NBS developed to meet Act 49 requirements must meet standards established under Act 38, therefore, NBSs must be developed using the most current version of the Act 38 NBS standard format.
2. Manure brokers are responsible to submit NBSs to the importing operator and CD offices in both the county where the manure is exported and the county where the manure is imported. For example, if manure is being exported through a broker from a farm in Lancaster County and is going to a farm in Schuylkill County, the broker must submit copies of the NBSs for the importing farm receiving the manure to both the Lancaster County and Schuylkill County CDs no later than the time of transfer of manure. A copy of the NBSs developed for the importing operation receiving the manure must be provided to the importing operation at the time of transfer.

## **C. Receipt of Act 49 NBSs**

1. When a district receives an Act 49 NBS from a certified commercial manure broker, the district is requested to complete the following:
  - a) Maintain a log of all Act 49 NBSs received. Information should include:
    - i. Date of receipt of the NBS;
    - ii. Name of the certified broker, and their certification number, who submitted the NBS. This may be a Level 1 or Level 2 broker (MHB1 or MHB2) certified by the PA Department of Agriculture;
    - iii. Name of the certified broker or certified commercial nutrient management specialist, and their certification number, who developed the NBS. The author of the NBS must be a Level 2 broker (MHB2) or a certified commercial nutrient management specialist (NMC) certified by the PA Department of Agriculture;
    - iv. Name and location (county and address) of the importing and exporting operations.
  - b) Send an 'Acknowledgment' letter. The district should send an acknowledgment letter to the broker stating the district has received the NBS. See Chapter 6, Supplement 15 for a sample letter.

*NOTE: NBS sheets submitted as part of an ACT 38 NMP update are acknowledged through the NM plan review process.*

#### D. Review of Act 49 NBS.

1. All delegated districts are required to review a minimum of 10% of all NBSs submitted to the district under the provisions of Act 49. **The district shall only review NBSs submitted for importing operations in the district's county.**
2. The district should review one (1) NBS developed for Act 49 purposes by an individual certified MHB2 or NMC (on behalf of a broker) on a quarterly or annual basis as they are submitted. This CD review of selected NBSs should be completed within 30 days. Note: The district may choose to review a second NBS developed by the same MHB2 or NMC if there were technical deficiencies with the first NBS submitted.
3. The review of the NBS should be conducted with the objective to identify any deficiencies or inconsistencies with the Act 38 NBS standards that can be discussed with the NBS author and corrected. Refer to 'Appendix 8 - Importer/Broker Agreement and NBSs' of the Pennsylvania Act 38 Nutrient Management Program Technical Manual for guidance on the content of NBSs.
4. **Act 49 NBSs are not required to be approved by the conservation district.** Therefore, an Act 49 NBS is not to be reviewed with the objective for approval but, to ensure that the content of the NBS meets Act 38 standards.
5. The District will work with the MHB2 or NMC that authored the Act 49 NBS to correct any identified deficiencies.
  - a) The district should make every attempt to communicate identified issues of concern with the author of the Act 49 NBS (MHB2 or NMC) verbally and through written correspondence. A letter similar in format to a technical review letter for Act 38 nutrient management plan may be used. See Chapter 6, Supplement 8 for an example response letter.
  - b) The district should allow 20 calendar days for response to its request for corrections.
  - c) If the author does not respond to the district's request to address issues of concern or the issues are not adequately addressed, the district may issue a second request for corrections and allow up to an additional 15 calendar days for the author's response.
  - d) When the district is unable to obtain a satisfactory response from the author, after the second request, the district should contact SCC certification program staff to address the issues with the author of the NBS.
    - i. When all deficiencies have been corrected, the district should advise the author to resubmit a copy of the corrected NBSs to the CDs in the exporting and importing counties and, provide updated copies to the importing operation.
    - ii. A copy of the corrected Act 49 NBS should be placed in the importing operator's file maintained by the CD.



6. When the District identifies a commercial MHB1, MHB2 who demonstrates activities inconsistent with the provisions of Act 49 (i.e. lack of submission of NBS where appropriate; continued deficiencies in the content of submitted NBS) the District shall contact the SCC to address the issue. The District will submit to the SCC any supporting documentation, requested by the SCC, that verifies the basis for submitting these names.

#### **E. Filing of NBS.**

1. If an Act 38 farm is exporting the manure, file the NBS in the Act 38 landowner file.
2. If an Act 38 farm is importing the manure, file the NBSs in the Act 38 landowner file.
3. All other NBSs submitted to meet Act 49 requirements are to be filed with the importer or exporters files maintained by the district. Note: Entering this information in Practice Keeper, where available, should be completed by the conservation district under the direction of the SCC and DEP.

#### **F. Summary Reports**

1. The District will provide the Commission with quarterly reports that summarize the NBSs received from manure brokers and the activities related to receipt and review performed by the District during the reporting period. Reports will be submitted through PracticeKeeper, (Act 49 NBS) as directed by the SCC or DEP per a schedule approved by the Commission.

### **VI. Reporting**

#### **A. All Delegated Conservation Districts:**

1. The reporting responsibilities of the delegated CDs are to provide SCC/DEP with information necessary to evaluate the success of the Nutrient Management program
2. Education
  - a. Educational/Training Efforts -- A minimum of two informational and / or educational training programs will be conducted each year. These programs are to provide information about the development of NMPs to operators of animal operations, people working towards certification, and certified NMSs in the area. Also, include a record of formal or informal program planning meetings as described in Chapter 2, Section 1.
  - b. Outreach - A minimum of three informal educational efforts will be conducted each year. These efforts may be made through newsletters, newspaper articles, social media posts, formal presentations or TV and radio announcements. The main focus of these efforts is to educate and inform operators and certified NMSs developing plans within your area.
3. Other district activities
  - a. Use PracticeKeeper (Attachment H) for reporting the education/outreach information described above.
4. Conservation District Nutrient Management Reimbursement Request and Quarterly Reports (see Chapter 6, Supplement 4) should be submitted to DEP,

through PracticeKeeper except the Certification for Payment which should be sent to the email account listed in the header.

5. DEP will compile the quarterly report information and forward to the SCC yearly and upon request.
6. Conservation Districts are to report their Act 38 and Chapter 91 delegated duties on a quarterly basis. Quarterly reports are due as follows:
  - a. January 25<sup>th</sup> for Quarter October thru December
  - b. April 25<sup>th</sup> for Quarter January thru March
  - c. July 25<sup>th</sup> for Quarter April thru June
  - d. October 25<sup>th</sup> for Quarter July thru September

#### **B. Multi-district arrangements**

1. The host district will compile quarterly reporting information for its own district and the associate district(s) for submission to the DEP. The instructions for submission of the reports through PracticeKeeper are in Chapter 6, Supplement 4. Both single and multi-district arrangements use the same forms and directions.
2. Associate districts will provide quarterly reporting to the host district. The instructions for the reports are in Chapter 6, Supplement 4.

### **VII. Chapter 91, Section 91.36 Delegated Duties**

#### **A. Overall program development efforts**

The delegated CD will develop and adopt a manure management outreach, education & training, and compliance implementation strategy that covers the following. (For multi-county delegation, Host Districts will work in consultation with the Associate Districts, in developing the strategy):

1. Identification of assistance efforts the districts can provide to farmers. Assistance efforts should include but, are not limited to plan development, technical assistance for plan implementation and verification of accuracy of manure management plans.
2. Identification and prioritization of types of farming operations the districts will support with manure management plan development and implementation assistance efforts and services.
3. If appropriate a written fee schedule can be approved by the delegated CD BOD, that will charge for Chapter 91.36 services performed by the districts, which are beyond the required minimum outreach, education or training duties.
4. Coordination of 91.36 Manure Management Program and Act 38 nutrient management program outreach and education efforts as they pertain to overall manure and nutrient management program compliance strategies in the county.
5. Complaint response and referral activities, consistent with guidance provided by DEP (Chapter 4, Attachment 1).
6. Identification of farm inspection procedures, if performed by the CD, that are consistent with guidelines provided by the DEP.

#### **B. Outreach**

The delegated CD will take the lead role in the coordination of outreach activities providing general awareness on 91.36 requirements to the agricultural community and the general public (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

1. Activities must include a minimum of 3 outreach activities per calendar year (e.g. farmer meetings, displays at local events, publication mailings etc.).
2. Activities will include distribution of materials developed by the district, DEP or other cooperating agencies or organizations.

#### **C. Education**

The delegated CD will take the lead role in the coordination of education activities to provide appropriate information pertaining to manure management planning principles and compliance requirements under 91.36 to the agriculture community. (For multi-county delegation, Host Districts will work in consultation with the Associate Districts)

1. Activities must include a minimum of 1 education activities per calendar year (e.g. farmer meetings or workshops etc.).
2. Activities will include distribution of materials developed by the district, DEP or other cooperating agencies or organizations.

#### **D. Training**

The delegated CD will facilitate workshops for agricultural operations in the development and the implementation of manure management plans separately or in cooperation with other districts or agencies (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

1. The district will conduct a minimum of 1 technical training program per calendar year for farmers to guide farmers through the development of a manure management plan for the farmer's operation. Trainings should include one-on-one training opportunities to assist a farmer in plan development.

The District will conduct a minimum of 1 technical training program targeting consultants assisting operators in the development of a MMPs or providing planning services to operators for MMP development. The target audience of the training program may include certified NMSs, manure haulers and brokers, and any individual offering manure management planning assistance, such as 4-H educators or students, FFA educators or students, private crop or pesticide consultations, etc., regardless of certification status. The implementation of this activity may be coordinated with technical trainings for operators.

#### **E. Planning and implementation assistance.**

1. The district will provide technical assistance to farmers and their consultants in developing manure management plans consistent with priorities established in the district's program implementation strategy (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

The district will provide technical assistance to farmers and their consultants in implementing their manure management plan consistent with priorities established in the district's program implementation strategy, as resources permit (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

2. The District will write a minimum of 10 MMPs for operators within the county. These written MMPs must be entered into PracticeKeeper. This required output measure is waived if the District chooses to perform "status reviews" under M.6 below. If a district has accepted Chesapeake Bay Technician Funding, this requirement is being met under that contract

3. The district may provide full plan development for farmers consistent with the district's manure management program strategy and priorities, as resources permit (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).
4. The district may perform quality assurance reviews of the accuracy of manure management plans and the implementation of plans, when district verification is requested by a farmer consistent with the district's Manure Management Program strategy and priorities, as resources allow (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

**F. Farm status review activities:**

1. The District shall perform status reviews of agricultural operations that use or produce manure to assess compliance with 25 Pa. Code § 91.36.
2. The District will perform status reviews on a minimum of 10 agricultural operations (1 Fulltime Equivalent Funding or more) or 5 agricultural operations (less than 1 Fulltime Equivalent Funding). Such status reviews will be conducted consistent with guidelines or Standard Operating Procedures (SOPs) provided by DEP. This required output measure is waived if the District chooses to write MMPs under M.5 above. If a district has accepted Chesapeake Bay Technician Funding, this requirement is being met under that contract.

**G. Complaint Response and referral**

1. Within 7 business days of receipt of a complaint, the district will either refer the complaint to the appropriate agency if it is outside of this delegation, or if it is a complaint dealing with 91.36 activities, the district will schedule and make a site visit to assess the problem in cooperation, where applicable, with other appropriate agencies or organizations. Complaints and site visits will be documented on forms provided by DEP (Chapter 4, Attachments 2 & 3), with an account of the visit conveyed back to the complainant. The complaint and the site visit forms shall be retained in the district files (For multi-county delegation, Host Districts will work in consultation with the Associate Districts)
2. The district will work with agricultural operators found to be in violation of Section 91.36 rules and regulations, to obtain compliance with these provisions as specified in guidance provided by the DEP (Chapter 4). The district shall record any contact with agricultural operators to document attempts to bring such situations into compliance.
3. Agricultural operations involving continued violations and where compliance cannot be obtained by the district are to be reported to the DEP for further action. (refer to Chapter 5 Appendix IX for a list of DEP regional offices). The districts will use the criteria established by the DEP for documentation and preparation of enforcement actions (Chapter 4). All actions, reports and other forms of documentation including personal observations can be used as evidence during any subsequent enforcement actions by DEP.

## **H. Compliance inspections**

1. The District may perform inspections (and additional status reviews above the requirement in M.5 above) of any agricultural operation to assess compliance with Section 91.36 and review MMP implementation efforts.
2. The District may assess compliance with Chapter 91 and the MMP requirements by performing on-site inspections of any non-CAO, non-CAFO agricultural operation.
3. The District may assist operations determined to be out of compliance based on an inspection or implementation of the BMPs required for or identified in their MMP. The District shall follow its agricultural complaint response policy and the guidelines or SOPs provided by DEP for operations that fail to come into compliance through the District's efforts.
4. As part of the District's inspection, the District may assess an operator's implementation of the OMP for the BMPs included in the MMP.

## **I. Recordkeeping:**

1. The District will retain as separate files: the quarterly reports required by the DEP; the District's Manure Management Program outreach, education and training, and compliance implementation strategy, including the date when this strategy was adopted; the District's approved fee schedule, including the date when this fee schedule was adopted; and MMP development and verification information, as required by the DEP.

## **J. Record Retention for Manure Management Plans (MMPs) and Chapter 91 Related Materials**

1. All records pertaining to Chapter 91 Outreach, Training, and Assistance are to be kept for a minimum of 3 years. These records may include the following:
  - a. Outreach
    - i. Short description of each outreach effort
    - ii. Number of farmers attending
    - iii. Number of private sector planners/consultants attending
  - b. Training
    - iv. Short description of each training effort
    - v. Number of farmers attending
    - vi. Number of private sector planners/consultants attending
  - c. MMP Assistance
    - vii. Short description of each on-farm assistance provided
    - viii. Number of on-farm planning assistance
    - ix. Number of on-farm technical assistance
    - x. Number of MMP voluntary verifications
    - xi. Number of CD Developed MMPs
  - d. MMPs, that CDs have fully developed, and correspondence associated with each operation will remain on file at the CD office and will be accessible to staff of the SCC, PDA and DEP.
2. Copies of Quarterly Reports and associated documentation as required by the DEP.
3. A copy of the Compliance Implementation Strategy including a copy of CD BOD

- meeting minutes with approval date.
4. A copy of the CD approved 91.36 fee schedule including a copy of the CD BOD meeting minutes with approval date, when applicable.

## **VIII. Referral**

### **A. Information for Nutrient Management Specialists and the public**

1. The CD will provide general information and preprinted resource material provided by the SCC to specialists who are requesting information to develop a NMP in the county. The information may include fact sheets, manure management manuals, soils maps, program forms, etc., if available. The CD will also serve as a local contact for questions related to Act 38.

### **B. Plan development**

1. The CD will provide detailed information to operators wishing to develop plans. SCC will serve as the principal contact with farmers when districts are not delegated. This will include information on individual certification for operators wishing to develop a plan for their own farm, the list of commercial specialists for that county and cost-share money for plan development from the Plan Development Incentives Program, if available.
2. For operations that must develop plans (CAOs, CAFOs, and VAOs with Clean Streams Law compliance), the CD will follow the Compliance Strategy (Chapter 4).

### **C. Technical assistance**

The CD will handle technical assistance requests that are within its capabilities and duties, such as the erosion and sedimentation program delegation, or refer requests to the appropriate agencies for action.

### **D. Complaints and compliance**

1. The CD will handle complaints and compliance that are within its duties, such as the delegation under the erosion and sedimentation control program, or refer them to the appropriate agencies for action.
2. Complaints related to Act- 38 should be processed and investigated as directed by Chapter 3, Section VIII and Nutrient Management Compliance strategy (Chapter 4). The Clean Streams Law complaints should be referred to the appropriate DEP Regional Office.
3. Chapter 3, Section VIII and Chapter 4 on Processing Complaints and the Compliance Policy and Chapter 6, Supplement 1 and 2 provides more details on complaint handling, compliance, referrals and proper documentation.

### **E. Multi-district arrangements**

#### **1. Host duties.**

- a. Inform the associate district of any technical referrals that are made for operations that fall under Act 38 and are within the area of the associate district; and
- b. Inform the associate district on the status of technical assistance provided by the host district or an agency for any operation that is in the associate district and falls under Act 38.

**2. Associate duties.**

- a. Forward plans for review to the host district;
- b. Inform the host district of technical assistance provided by the associate district or an agency for any operation that is in the associate district and falls under Act 38; and
- c. Refer technical assistance requests that are not handled by the associate district to the host district or an appropriate agency.

**3. Both host and associate districts must:**

- a. Review complaints;
- b. Handle referrals and/or complaints that are within the duties and capabilities of the district; or
- c. Refer technical assistance requests which are outside the capabilities of the CD to the appropriate agency.
- d. Review plans submitted for Act 38 approval.

# CHAPTER 3

## Program Operations



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## **I. Plan Review and Approval**

1. The Act 38 program will accept electronic submissions of the initial Act 38 nutrient management plan and plan amendment submissions, with all sections completed, including signature, developed using the standardized Act 38 computer spreadsheet (Excel and Word) program. It should be noted that when the plan or plan amendment is determined to be in its final form for board action, a hard copy of the entire plan, and all plan maps, will need to be provided to the district or Commission for formal action. The electronic submission allowance is only for the initial submissions of new plans or plan amendments and any follow up plan correction submissions, and these electronic submissions need to be followed up with a hard copy once the plan or plan amendment is determined by the reviewer to be ready for final action. This allowance is not provided for the submission of yearly submissions to the conservation district, for filing in the farmer's approved plan file.
2. When a nutrient management plan (NMP) is submitted to the district, hard copy or electronically, the plan must be printed and date stamped upon receipt using the stamp provided by the SCC. An administrative review will be performed within 10 days of receipt and prior to the technical review. This administrative review will determine whether all the required elements of a NMP are present in the submission. The technical review is performed after the administrative review and analyzes key plan elements to determine whether they meet the requirements of Act 38 and the Chapter 83 regulations.
3. While plan approval is a function of the conservation district board (or in some cases the SCC), all plan review functions must be performed by provisional or final certified conservation district staff. Provisional status for a NMS is achieved once the required training has been attended and the Nutrient Management Exam has been passed. A NMS that have not become final certified will need to coordinate NM program duties with their regional SCC representative until final certification is achieved.
4. While much of this document is directed toward items that must be submitted for technical review, it is important to note that, according to § 83.361(f), a current Agriculture Erosion and Sediment (E&S) control Plan or conservation plan that satisfies the same requirements, is required to be in effect on the operation prior to NMP approval. This plan, which may be developed by the operator or a qualified planner, must meet the requirements of the Erosion and Sediment Control regulations at § 102.4(a). The current conservation plan or Agricultural E&S control plan is not to be submitted to the CD or SCC. The existence of the current plan only needs to be verified by the CD or SCC.

### **A. Administrative completeness review**

1. The administrative completeness review determines whether the plan contains all the required elements, including current soil tests and manure analyses. The district will conduct the administrative completeness review and provide notice to the operator and planner as per the outcome of this review within 10 days of plan receipt.
2. The Plan Review Checklist (Chapter 6, Supplement 14) contains the elements

that must be submitted in order to have a complete plan. This administrative completeness review is very important. The omission of some of these items could seriously alter the 90-day plan review timeline and action requirement, which is discussed in section C.1 below. It is important to note that, while it is not a specific requirement under the administrative completeness review, the lack of a conservation plan or Agricultural Erosion and Sedimentation Control Plan (ag E&S Plan) could also adversely affect this timeline.

3. Upon completion of the administrative completeness review, the operator shall be notified by a formal letter, with a copy to the planner, of the results of this review; namely, whether the plan is administratively complete. **If the NMP is for a CAFO, the CD must copy the DEP Regional Office on the correspondence related to administrative completeness.**
4. If the plan is not administratively complete, a formal letter will be sent to the operator and planner. The administratively incomplete plan will be discarded by either returning to the planner or operator, or recycling in the trash. This letter will detail the additional elements necessary to produce a complete plan submission and a plan resubmission deadline. NMPs submitted near the plan expiration date for CAO and CAFOs that are found to be administratively incomplete will be given 30 days to resubmit but could be subject to enforcement by the SCC and/or DEP for noncompliance. Once the plan is administratively complete, the technical review process will begin. The plan when submitted is a public document, accessible by any interested party according to the CDs or SCC's Public Access Policy. (Sample letters are contained in Chapter 6, Supplement 7)

## B. Technical review

1. Technical review, which occurs after the plan has been determined to be administratively complete, includes a review of the actual plan elements submitted by the planner, as well as, a site visit. Although not required, concurrent site visits with the planner are encouraged. This could alleviate confusion during the technical review process.
2. It is during the site visit that the certified Nutrient Management Specialist (NMS) will review items that are not required to be submitted, such as: the conservation or Ag E&S Plan, soil test and manure analysis reports, the Emergency Response Plan, etc. In regards to soil tests and manure analysis, these should be confirmed with what is written in the NMP. A comprehensive list of items to be addressed during the site visit can be found in Chapter 6, Supplement 14.
3. Please note that it is extremely important during the site visit to determine whether the operator has a current Ag E&S plan in place. Although the operator can develop this plan, many operators may be uncomfortable taking that responsibility on themselves. In some areas of Pennsylvania, the availability of qualified, professional conservation or Ag E&S planners is in short supply; therefore, if the operator does not have a current Ag E&S plan, the operator should make arrangements to develop the erosion control plan immediately. If this Ag E&S plan is not in place by the end of the technical review period, the NMP shall not be recommended for approval. The NMP can be withdrawn from the review process or disapproved by the CD board of directors.

4. For all the other details related to conducting the technical review, please refer to the PA Nutrient Management Act Technical Manual.
5. If the NMP does not meet program requirements, informal efforts to obtain an approvable plan may be discussed with the planner. Informal efforts could include email and phone conversations. If these informal efforts are unsuccessful, an official letter requesting corrections or revisions will be sent to the plan writer with a copy provided to the operator. It is not a program requirement that the operator be copied with the first request for corrections, unless it is district policy; however, the operator must be copied on the second and all subsequent requests for corrections. Each version of the plan should have an additional stamp placed on the cover page showing the date it was received.
6. Should plans be received from conservation district board members, or others with whom the district NMS may have a possible conflict of interest, the district NMS should notify the SCC Regional Coordinator assigned to that conservation district. The SCC Regional Coordinator will then work with the conservation district to help determine how best to proceed with the review. Options may include: neighboring district staff operating under a cooperative agreement performing the review, the SCC assisting the CD staff with the review, or the SCC actually performing the review.
7. **CAFO Nutrient Management Plan Reviews:**
  - a. The federal CAFO regulations call for the permit approval authority (Pennsylvania DEP) to review NMPs when reviewing CAFO permit applications. To minimize multiple reviews and ensure that CDs are not approving a NMP that will be rejected by DEP, districts must communicate with their DEP regional staff when reviewing these CAFO plans.
  - b. When a district receives a plan that will be used in a CAFO permit application, the district shall contact their DEP regional office and advised them the plan has been received. The district and DEP regional staff will perform a concurrent review of the plan. Any issues identified by the DEP regional staff may be discussed between the district and the DEP staff, and where necessary, addressed by the planner in the review process. DEP should forward their plan comments / deficiencies to the district and only one combined set of comments will be sent to the plan writer.
  - c. This process will eliminate the need for DEP regional staff to re-review a NMP that has already been approved by the conservation district, while still complying with the EPA regulations and not adding any extra review time to the process.
  - d. After the CAFO NMP has been determined to be administratively complete the District shall complete CAFO NMP PUBLIC NOTICE SPREADSHEET – APPLICATIONS (Submission) in Chapter 5, Section V and submitted it to [RA-EPSCCWPABULL@pa.gov](mailto:RA-EPSCCWPABULL@pa.gov)) to advertise this NMP in the PA Bulletin. CAFO NMPs are required to be advertised for 30 days. It may take up to 45 days to complete the public comment time frame. District are allowed to send their formal technical comments to the plan writer before the 30-day public comment time frame has lapsed, but

a note must be added to the letter that additional comments may be forthcoming if any are received at the end of the 30-day comment period. The note could read as: "Please note that the plan was published in the PA DEP Bulletin on XX, XX, XXXX and it must be posted for 30 days. If review comments are received from that, additional corrections may be required in order for the plan to be approved.

- e. Also, after board action on a CAFO NMP the District shall completed CAFO NMP PUBLIC NOTICE SPREADSHEET – ACTIONS (Approval / Disapproval) in Chapter 5, Section V and submit it to [RA-EPSCCWPABULL@pa.gov](mailto:RA-EPSCCWPABULL@pa.gov) to advertise this action in the PA Bulletin.
  - f. For PA Bulletin notification guidance for CAFO plans, refer to Chapter 5, Section V
8. Further details related to plan review procedures and timelines may be found in 83.361 of Act 38 and in the PA Nutrient Management Act Technical Manual.

### **C. Plan approval**

1. While conducting technical reviews, the reviewer should bear in mind that, according to regulations, the district board of directors is obligated to make a decision on approval/disapproval within 90 days of the date the plan is received by the district. Extensions of this timeline of up to an additional 90 days are allowable under specific circumstances (see Section C4 below). Review of plans can only be completed by a publicly certified NMS; therefore, the CD board must rely on the technical review of the plan and act upon the NM specialist's recommendation. Reviewers must realize that district board meetings usually occur only once a month; therefore, the review process will need to be scheduled so that the recommendations are ready to be presented at a board meeting that is scheduled within the 90-day review period. Because of this situation, most plans will need to be presented to the board for action before 90 days have actually elapsed.
2. Action of plans is the responsibility of the CD board of directors. The SCC strongly encourages that all plans (e.g. CAO, VAO, CAFO or compliance plans) be considered for action at a public district board meeting that has been advertised under the Pennsylvania Sunshine Act. The final version of any plan will be made available for public review at least seven calendar days prior to consideration for action. Interested persons should contact the CD to schedule a review. The district is not required to advertise plan availability for review prior to final action; however, access to plans must be available to the public as requested. The delegation of plan action authority to final certified district staff, although not recommended, requires an official action of the CD board of directors. A record of the decision to delegate this authority in the minutes of a board of directors meeting would be sufficient.
3. Only new plans and plan amendments need CD board of directors action. Plan updates are reviewed and acknowledged by reviewing specialist. These plan updates will then become a plan amendment at the triennial review. Note that the plan writer is to clearly identify to the CD if they are submitting a new plan, plan amendment, or a plan update.

4. If, after informal and formal communications are made to request revisions, the plan is still found unacceptable and is disapproved, the district must inform the operator in writing by certified mail of the reasons for disapproval, the specific corrections required, and the operator's right to appeal. CAO and CAFO operations must resubmit a revised plan within 30 days.
5. Conservation districts have a finite timeframe in which to act on a plan under review for the Act 38 program. Unless there is a plan review delay caused by the conservation district, action on the plan must take place within 90 days of receiving a complete plan. If the conservation district provides its full set of initial plan review comments to the planner, giving the planner at least 30 days to address the comments prior to the first 90-day deadline, the district is expected to act on the plan within 90 days. However, if the district is delayed in providing its complete initial plan comments to the extent that the planner does not have the aforementioned 30-day time period to make any required plan revisions, the district are to request a plan review extension from their SCC Regional Coordinator. Districts should not have to request to extend the review time for the entire second 90 days. Districts shall review their scheduled board meeting dates and consult with their SCC regional staff as to whether to extend the time period and the length of time to extend. Districts are to submit the Plan Review Timeframe Extension Request (Chapter 6, Supplement 17), to supply information to their SCC Regional Coordinator, prior to SCC Regional Coordinator granting the request. These requests should be submitted prior to the last board meeting within the first 90-day review time frame. It is the discretion of the SCC whether it is appropriate to utilize the second 90-day period, or any portion thereof.
6. If, through no fault of the operator or planner, the district would fail to make a decision within 90 days, the operator of a CAO, VAO, or CAFO must either resubmit the plan, or request the district to review the plan as originally submitted. In that instance, the district will have up to an additional 90 days to approve or disapprove the original submission or resubmission. It is the discretion of the SCC whether it is appropriate to utilize the second 90-day period, or any portion thereof. Conservation Districts are to contact their SCC regional coordinator for consultation on extending the plan review timeline. Districts are to submit the Plan Review Timeframe Extension Request (Chapter 6, Supplement 18), to supply information to their SCC Regional Coordinator, prior to SCC Regional Coordinator granting the request. If the district would fail to take action on the plan within that second 90-day period, that plan automatically would be deemed approved.
7. Provisions for withdrawing of a plan under review:
  - a. The following guidance is provided for CAO, CAFO and VAO plans undergoing review under the Act 38 program. It should be noted that CAOs and CAFOs have an obligation to maintain a valid NMP for the life of their operation. Therefore, if one of these mandated Act 38 participating farms withdraws a plan under review, they are required to resubmit a new plan submission within 30 days of withdrawal in order to demonstrate a desire to maintain compliance. In contrast, non-



mandated Act 38 VAOs have no legal obligation to resubmit a plan which they withdrew unless they received BMP installation funding under Act 38 or AgriLink (but their obligation only lasts for the life span of the funded BMP), or if they wish to continue their efforts to participate as a VAO under the program.

- b. Given the time restriction on the approval/disapproval of the submitted plans, there will be times when the planner cannot adequately address the comments provided within the allotted timeframe. Farmers and planners may not want a formal NMP “disapproval” on public record with the CD. To avoid this, the planner or operator submitting the plan may make a written request (via letter or e-mail) to the CD, requesting that the plan be withdrawn from the review process. The CD will send a letter to the planner or farmer (depending on who sent in the withdraw request) and copy the other party (such as copying in the farmer for a planner request, and copying in the planner for a farmer request), acknowledging the withdrawal request (Chapter 6, Supplement 6). This acknowledgement letter will also notify mandated Act 38 participating farms about the 30-day resubmission requirements.
  - c. In light of this process, when conservation districts provide their initial plan review comments they should alert the planner/operator regarding the specific timelines mentioned above, including CD board meeting dates. For plans requiring extensive revisions, the planner may want to discuss with the CD the option to withdraw the initial submission and resubmit a revised version of the plan that would be expected to move through the revision and review process within the 90-day plan review timeframe.
8. The reviewing entity (CD or SCC) shall make sure that the NMP is in approvable form, and available for public review and comment, at least 7 days prior to action. The reviewing entity shall use the final form stamp, that is provided by the SCC, on the cover page.
  9. The reviewing entity (CD or SCC) shall notify the operator, in writing, with a copy sent to the plan writer and the DEP Regional Office (CAFO and compliance plans), of the results of the plan review; namely plan approval or disapproval. Once approved the reviewing entity needs to submit, through PracticeKeeper, the plan information described on Attachment F. (Chapter 6 Supplement 4) As with plan review, further details related to the plan approval process can be found in Chapter 83, specifically 83.361.

#### **D. Written responses to submission of plans**

1. Initially in the review process, informal methods, such as telephone calls or emails, may be used to expedite communication to the planner regarding revisions needed for plan approval. If informal methods to correct the plan cannot meet the regulatory requirements, a formal letter documenting deficiencies and requesting corrections must be sent to the plan writer with a copy to the operator. See Chapter 6, Supplement 8 for a sample correction letter. A copy of this

formal corrections letter must be placed in the operator's file in the district office until the deficiencies are addressed.

2. The Owner/Operator and planner are to receive the second and all other "request for corrections" letters after informal efforts to make corrections with the planner have failed.
  - a. Conservation Districts are allowed to send all correspondence by letter, if directed to do so by their district manager or Board of Directors.
  - b. Conservation Districts are allowed to send the first correction letter (copy of the first technical review e-mail or notes from the first technical review telephone call), if directed to do so by their District Manager or Board of Directors. However, this is not required.
3. When a plan has met the criteria for the Act 38 program and is approved, the district will inform the operator of the approval in writing and send a copy to the planner. Along with the approval letter, the district should send copies of plan implementation and record keeping forms, as well as, export packets if applicable. The letter should also inform the operator of any future plan implementation deadlines (planned BMP installation dates) and the timing of plan updates or amendments. See Chapter 6, Supplement 9 for sample approval letters.
4. When a plan that has been resubmitted still does not meet program requirements, and is subsequently disapproved by the district board, a disapproval letter noting the deficiencies in the plan with the appeal provisions (see Chapter 6, Supplement 10 for sample letter) must be sent to the operator by certified mail. A non-certified copy of this letter must also be sent to the planner.

## **E. Plan Updates**

1. It is important to remember that there are three (3) different types of NMP Updates that can be submitted as follows:
  - a. Simple Update - To address minor operational or computational changes anytime during the 3-year life of the NMP. Examples include growing a different crop or applying a different manure type in a field(s) than was originally planned.
  - b. Triennial Review Update – Updates the plan for the next 3 crop years and mainly applies to total export plans using a broker and there is no cropland or pasture on the operation.
  - c. Yearly Plan Submissions Update – Updates for crop years 2 & 3 in the subsequent 2 years after a 1-year NMP is reviewed and approved.
2. All NMP updates shall be developed by a Certified Nutrient Management Specialist and submitted to the CD. These updates must be reviewed and acknowledged by a Final Certified CD Reviewer. Provisionally Certified CD Reviewers should contact their SCC Regional Coordinator for guidance regarding NMP updates received at their CD. If errors are found, the CD should send the standardized letter requesting corrections.
3. Regardless of the type, once the NMP update has been evaluated by the CD and determined to be complete and accurate, the CD shall place the update in

the operators NMP file. Additionally, the CD should send the standardized plan update acknowledgement letter to the operator and planner (additionally DEP if a CAFO). The “Yearly Plan Submission or Plan Update Acknowledgement Letter” can be found in the NM Administrative Manual, Chapter 6 – Supplement 12.

4. The next step in the process after reviewing and acknowledging updates is for the CD to utilize the *NMP Update Report to Board of Directors* form, Chapter 6 – Supplement 18, to inform the BOD of plan updates received and acknowledged during the month. Data from each update is to be entered into the form for the next monthly BOD meeting and can accompany the technician’s monthly report. The purpose of this form is to create a standard approach that all CDs can use to inform their BODs about NMP updates. ,
5. Another less preferred option is for the CD to complete the standardized NMP Update Memo, Chapter 6 – Supplement 18. A separate memo would need to be completed for each NMP Update processed.
6. Plan updates require no action by the District’s BOD. Do not wait to send the plan update acknowledgement letter to the operator and planner until after the BOD meeting. The plan update acknowledgement letter should be sent as soon as the plan update is evaluated and determined to be complete and accurate.
7. More information about NMP Updates and yearly Plan Submissions can be found in the Nutrient Management Technical Manual, NMP Submissions: Required Appendices and Supplemental Information – Pages 3-6 and Section VI: Plan Amendments and Transfers – Pages 3 & 4.

## F. Plan Transfers

1. In accordance with **§ 83.373 Plan Transfers (a)**: An approved nutrient management plan may be transferred to a subsequent owner or operator of an agricultural operation by notification of the transfer to the Commission or delegated conservation district, unless the transfer results in operational changes requiring a plan amendment under § 83.371(relating to the plan amendments).
  - a. The written notification must be signed by the current owner/operator and the new owner/operator.
  - b. A sample letter is included in Chapter 6, Supplement 16, which the current owner/operator and new owner/operator can utilize to notify the CD or SCC of the proposed transfer.
  - c. In this situation, where there are no operational changes, the CD will do the following:
    - i. Inform the CD BOD of the plan transfer at the next scheduled meeting
    - ii. Meet with the new owner/operator to discuss the implementation of the NMP, record keeping, status reviews, expiration timeframe,

etc.

2. In accordance with **§ 83.373 Plan Transfers (b)**; If the transfer of the approved plan results in operational changes requiring a plan amendment under § 83.371, the plan amendment shall be submitted for approval of the Commission or a delegated conservation district along with, or before the notification required under subsection (a).
  - i. For a situation where a plan amendment is required, follow the plan amendment protocol

**G. Plan reviews for certification**

1. The SCC will periodically supply (via the PaPlants website) a “County Specialists” list of individuals who are commercially certified to prepare plans in specific counties. The list will include the specialist’s current contact information and certification status. The website will also provide a “Certification Update” when changes in the list occur. District NMSs should check the website periodically to ensure they are providing operators with the most up-to-date listing of certified planners.
2. When the district approves a plan that meets the requirements of the Act and regulations, it will notify the operator and provide a copy of the approval letter to the specialist who wrote the plan. If the planner is provisional certified, the district will send a copy of the approval letter to the SCC Nutrient Management Program Certification Specialist. The SCC will keep a record of the plan approval letters for each specialist. When the specialist has completed the plans required for his or her requested certification category, the SCC will grant final certification under the program. The SCC will then update the aforementioned website showing the new certification status. At that point the district no longer needs to send copies of plan approval letters to the SCC for that specific planner. This information may also be made available periodically through direct email.

**H. Multi-district arrangements**

1. Host district duties.
  - a. Have the lead role in the following activities:
    - i. Conducting the completeness review of the plan and reporting back to the associate district;
    - ii. Conducting the technical review, including the plan review site visit to the operation; and
    - iii. Reporting back to the associate district within 45 days of receiving the plan from the associate district.
  - b. Assist the associate district with plan/amendment approval, plan update and yearly plan submission concurrence. This may require the Host Technician to attend the associate district board meeting when the plan is considered.
  - c. Conduct reviews for operations that request amendments due to unforeseen circumstances.
  - d. File submitted and approved plans, plan updates or yearly plan submissions and plan amendments. The official file for the operation will

- be kept by the host district.
- 2. Associate district duties.
  - a. Forward plans, plan updates, yearly plan submissions, and plan amendments for review (concurrence, in the case of plan updates and yearly plan submissions) to the host district within five working days;
  - b. Inform the host district of approval decisions; and
  - c. File submitted and approved/concurred plans, plan updates or yearly plan submissions and plan amendments. The official file for the operation will be kept by the host district.
- 3. Both host and associate districts must:
  - a. Acknowledge and record receipt of plans, updates or yearly plan submissions and amendments;
  - b. The district where the operation exists will approve plans, concur with plan updates or yearly plan submissions, and approve amendments;
  - c. Inform the operator (and copy the planner) regarding plan, update and amendment approval or disapproval (concurrence or non-concurrence, in the case of plan updates and yearly plan submissions);
  - d. Approve or disapprove financial assistance plan extensions; and
  - e. Provide all applicable information, materials and forms supplied by the SCC to operators with approved plans to assist them in meeting the requirements of the Act and regulations.

## **II. Implementation Records**

### **A. Conservation district implementation records**

- 1. The conservation district will maintain the following information that relates to implementation:
  - a. The final approved NMP.
  - b. The official agency file shall contain:
    - i. Review notes and action (concurrence, in the case of plan updates and yearly plan submissions) of NMPs, plan updates, yearly plan submissions, plan amendments, plan transfers, manure storage setback waivers and BMP implementation delays;
    - ii. Manure Export Sheets or Annual Summaries of Manure Transfers. These are not required for VAO plans or for CAOs who transfer manure to known landowners described in the plan;
    - iii. Reports and supporting information regarding compliance inspections and on-site status reviews;
    - iv. Certification by a Pennsylvania-licensed Engineer of Record and the construction contractor (Chapter 6, Supplement 12) that the construction of a new or expanded liquid or semi-solid manure storage facility was designed and built according to the appropriate PA Technical Guide standards and specifications; and
    - v. Record of the triennial plan reviews – In the case of total export plans that have no cropland, every three years a NMS will provide notice to the reviewing agency on whether the operation is consistent with the approved plan.

- c. Implementation reporting information -- The following report items relate to implementation tracking. NOTE: All items that the Conservation District reports would be entered via PracticeKeeper, following the instructions found via web-based trainings.
  - i. Technical assistance provided.
  - ii. Technical assistance forwarded to appropriate agencies.
  - iii. The number of NMPs, plan amendments, plan transfers, manure storage setback waivers and BMP implementation delays submitted for approval by operations within its county.
  - iv. Results of compliance efforts and referrals to the SCC for continuing violators of Act 38.
  - v. Results of on-site status reviews.

## **B. Operator implementation records**

1. The operator must also maintain the following implementation information in his/her file. This information is available for review to assess program compliance during:
  - Educational site visits by the district/SCC;
  - On-site status reviews by the district/SCC;
  - Triennial plan reviews by a certified NMS; and
  - Complaint investigations, if any, by the district/SCC.
2. The operator must maintain copies of the following:
  - a. The NMP including excess manure utilization plans and a review of critical runoff problem areas.
  - b. General record-keeping must be maintained for a minimum of three years. It must include but is not limited to:
    - i. Soil testing;
    - ii. Manure testing;
    - iii. Land application of nutrients (manure, other organic nutrients, and fertilizers);
      - a) Location and number of acres applied
      - b) Date (month) and year of application
      - c) Rate of application for each field or crop group
      - d) Pastures records - Volumes of manure applied from time periods animals are on pastures, number of animals, time frame animals are on pastures.
    - iv. Accurate annual crop yield for each crop group; and
    - v. Annual manure production.
3. The operator is responsible for obtaining necessary BMP designs, which must be kept at the operation as a supplement to the NMP.
4. A written Operation and Maintenance Plan prepared for a design by the Engineer of Record, along with a site-specific Emergency Response Plan that identifies agencies to be notified and actions to be taken in the event of a major manure leak or spill from a manure storage facility, must be kept on site by the operator. The operator is responsible for implementation of the Operation and Maintenance plan and Emergency Response Plan.

5. Excess manure record keeping.

**C. Informational requirements when exporting manure off the operation.**

1. The importer has the primary responsibility for the application of the manure imported to his/her site. When an importer receives the manure from the exporter, the manure is changing ownership and becomes the importer's manure. Therefore, it is the importer's responsibility to ensure that the manure is used correctly.
2. The record keeping and informational requirements reflect this change of ownership, except in the case where the exporter is applying the manure for the importer. In this case, where the exporter applies the manure, the exporter retains some control of the application and must record the field identification, the rate at which the manure was applied and the acres to which the manure was applied (See the Manure Export Sheet discussion in Supplement 12 of the PA Nutrient Management Act Technical Manual).
3. When manure is exported **from a NMP operation for land application**, the program requires the NMP Operation (exporter) to provide the importer with various informational items to allow the importer to best manage the manure being imported. The CD or the SCC will provide the "Exported Manure Informational Packet" to the NMP exporting operation for distribution to the importer. The NMP operation exporter is only required to provide those items (i, ii, iii, iv v and vi) that have been made available to the exporter by the CD or the SCC. The NMP operation exporter is responsible for providing the informational materials to the importer or broker only if the importer or broker does not already have a current copy of the informational materials. A new manure export sheet is required for each export transaction. The "Exported Manure Informational Packet" containing the following items required by the regulations and must be provided by the exporter to the importer:
  - i. Exported Manure Informational Packet Cover Sheet
  - ii. A completed **manure export sheet**,
    - a) A manure export sheet shall be used for **all** manure transfers from NMP operations. The **NMP operation is responsible for providing the export sheet to the importers.**
    - b) "Blank" export sheets should be given to the NMP operation at the time when the operator is informed of his/her plan approval.
    - c) **Computer-generated manure export forms** may be used if they contain the same information as, and are reasonably similar in format to, the manure export sheets provided by the program.
    - d) The **exporter is responsible** for the completion of Section 1 of the Manure Export Sheet. When the exporter, or person working under the direction of the exporter (such as a commercial hauler, or a hired farm worker), applies the manure to the importing farm, the exporter is also responsible for completion of Section 2 of the Manure Export Sheet.
    - e) A sample copy of a manure export sheet is attached in Chapter

6, Supplement 5.

iii. The **Pennsylvania Manure Management Manual for Environmental Protection (November 15, 2001) (361-0300-001)**

- a) The exporter is required to provide the importer with the Pennsylvania Manure Management Manual at the time the manure is exported. If the exporter needs copies of the Pennsylvania Manure Management Manual to provide to the importer, copies may be obtained from the regional DEP office or from the delegated conservation district.

iv. A concise **educational publication describing the key concepts of nutrient management.**

- a) The program has developed this publication as a fact sheet titled: 'Agronomy Facts 60' - Nutrient Management Planning, An Overview'. This publication can be obtained from the county Penn State Cooperative Extension office or from the delegated conservation district.

v. **Land Application of Manure**, A supplement to the Manure Management Manual for Environmental Protection (October 29, 2011) (361-0300-002)

vi. **In-Field Manure Stacking requirements.** A sample is attached in Chapter 6, Supplement 5.

- 4. Nutrient Balance Sheets (NBSs).
- 5. The export of small quantities of manure should also be documented. This can be accomplished on forms found in the PA Nutrient Management Act Technical Manual.
- 6. Annual records of the amount of manure utilized in any manner other than through manure transfers should also be recorded and kept on file at the operation.
- 7. All nutrient sources generated or utilized on the operation are required to be recorded and kept on file at the operation.

**D. Multi-district arrangements**

- 1. Host district record keeping duties.
  - a. Maintain the records with the official operation file; and
  - b. When necessary, attempt to gain voluntary compliance with the approved plan and the regulations.
- 2. Associate district record keeping duties.
  - a. Forward records to the host district for review; and
  - b. Maintain records in the official operation file.
- 3. Host and Associate districts are jointly responsible for providing forms for reporting implementation information to the operator.

**III. BMP Implementation Extensions**

**A. Volunteer Animal Operations (VAOs)**

BMP implementation extensions are not required of VAOs because they are not required to hold a plan under Act 38. For implementation extension requests from



VAOs who are also CAFOs, the district shall contact and work with the DEP Regional Office covering the operation to determine the most appropriate course of action. It is important to note that operations will receive limited liability protection only to the extent that the approved plan is implemented; therefore, the operator may find it advantageous to update the implementation schedule as circumstances change in order to maintain limited liability protection. *In the event that a VAO decides not to implement their approved plan the operator will forfeit the limited liability protection and be directed to withdraw from the Act 38 program.*

**B. Concentrated Animal Operations (CAOs) unable to implement the required BMPs as listed in their implementation schedule**

The BMP implementation schedule may be extended an additional two years where individual substantial capital improvements are required under an approved plan if **both** of the following occur (see 83.362(a)):

1. The owner or operator demonstrates that the cost of all or part of the individual improvements for which the extension is applicable cannot be financed through available mechanisms, as explained by the following criteria:
  - a. Individual substantial capital improvements shall be structural practices costing more than \$10,000; and
  - b. The operator must submit applications and/or evidence demonstrating that funding would not be provided from three viable, agriculture-related government or private grant or loan sources.
2. In addition, a sum of \$2 million or more is not available for grants and loans from the Nutrient Management Fund at the time the BMPs are scheduled for completion.

*Note 1: There is no formal approval process for BMP implementation extensions. The delegated CD or SCC would need to verify that the extension request meets both of the criteria identified. Appropriate extension requests in the first two years of the plan may be handled with a plan update. However, according to regulations related to triennial review, extension requests submitted in the final year of the plan would require a plan amendment and would need to follow the plan amendment approval process.*

*Note 2: Where it is possible for the operator to take some less expensive remedial measures, such actions will be taken provided the actions are concurred upon by the delegated conservation district or SCC. This action should be covered under a Plan Amendment.*

*Note 3: Other than the unforeseen circumstances discussed in section III, C, implementation extensions are not applicable for very simple management items such as manure and fertilizer application rates.*

*Note 4: A NMP amendment would be necessary if a BMP that is different from the planned BMP is proposed (see 83.371 (a) (5)).*

*Note 5: For implementation extension requests from CAOs that are also CAFOs, the district will contact the DEP Regional Office covering the operation to determine the most appropriate course of action. Any change to a CAFO NMP must be reviewed by DEP before authorizing the change. Otherwise the change may be contrary to the CAFO permit.*

### **C. Implementation extensions for NMP holders due to unforeseen circumstances**

1. The operator will obtain direction from a NMS when changes in plan implementation occur due to unforeseen circumstances.
2. The documentation for plan implementation changes will be submitted to the district within 30 days of implementation and will temporarily become part of the plans until normal operation resumes and will not require review and approval by the district or the SCC. Note: If excess nutrients are applied or streams and wells are not properly identified, an NMP amendment is necessary.
3. Unforeseen circumstances may include:
  - a. The outbreak of contagious disease and the issuance of an Order of Quarantine from PDA which results in severe financial hardship (see Section 83.372(1));
  - b. Failure or malfunction of equipment or storage that requires a change in manure handling procedures;
  - c. Unforeseen weather conditions which significantly impact plan implementation due to a 25-year, 24-hour storm or greater; or crop failure due to adverse weather conditions, such as a drought emergency declaration by the federal or state government or an interstate river basin commission for the county where the operation is located;
  - d. Unanticipated loss of rented land creating a reduction of greater than 20 percent in the total, farm-wide nitrogen necessary for expected crop yields.
  - e. A personal situation or condition outside the control of the operator, such as a serious health condition.
4. If normal operating conditions have not resumed within one year after implementation changes have been made due to unforeseen circumstances, the operator will be required to obtain an approved plan amendment.

### **D. District duties**

1. For NMP holders unable to obtain financial assistance for individual substantial capital improvements, the district will:
  - a. Acknowledge receipt of the proposed BMP implementation extension by providing a letter to the operator within 10 business days;
  - b. Evaluate the proposed extension within 60 days (in consultation with the SCC Regional Coordinator), to determine if it meets the criteria in the regulations and this manual; and
  - c. Provide a written response to the operator proposing the extension on whether the request meets the criteria and the extension is granted or denied. This letter may reference any remedial measures to be taken.
  - d. In the case of CAFOs, consult with the appropriate DEP Regional Office or other appropriate agency if an enforcement action has been taken.

### **E. Multi-district arrangements**

1. Host district duties - Host districts will review requests for implementation extensions from NMP holders.
2. Associate district duties -- Associate districts will forward to the host district

implementation extension requests and certified changes due to unforeseen circumstances.

3. For implementation extension requests from NMP holders, the host and associate districts will:
  - a. In the case of CAFOs, consult with the DEP Regional Office as in Note 4 in section B above.
  - b. Acknowledge to the operator the receipt of implementation extensions;
  - c. Approve or disapprove requests (with SCC Regional Coordinator concurrence); and
  - d. Inform the operator of the decision.

#### **IV. Processing Requests for Manure Storage Setback Waivers for Perennial Stream, River, Spring, Private Well, Lake, Pond, or Reservoir.**

##### **A. Acknowledging receipt of proposed setback waivers**

The operator and/or their consultant shall complete the appropriate waiver form and submit it along with the plan view of the proposed manure storage with all applicable items located on the plan view. Items noted should include all environmentally sensitive areas, as well as, property lines and elevations of the proposed manure storage. The district shall acknowledge the receipt of the proposed waiver to the operator within 5 business days of receiving the waiver request. The district should ensure that operators or engineers utilize and follow directions provided on the official SCC Manure Storage Setback Waiver form, which can be found in Supplement 15 of the PA Nutrient Management Act Technical Manual. The acknowledgement letter will indicate to the applicant:

1. The date received;
2. The processing steps and the criteria used to evaluate the proposed waiver;
3. The maximum amount of time the district has to act on the waiver (90 days); and
4. When the district would like to visit the site to determine the feasibility of the waiver.

*Note: A sample acknowledgement letter can be found in Chapter 6, Supplement 12 of this manual.*

##### **B. Filing of proposed waivers**

The district will keep a copy of the waiver application, along with copies of any correspondence concerning the proposed waiver, with the district's approved plan file for this operation. The district will provide a copy of the proposed waiver along with any correspondence to the local NRCS office, if the district or the operator requests NRCS assistance.

##### **C. Procedure for conducting on-site evaluations of waivers**

1. The district must ensure that proper procedures and documentation are followed in the evaluation of sites proposed for manure storage setback waivers.
  - a. The district must work with the applicant and other involved parties to arrange a site visit to evaluate the proposed waiver. Representatives from

the following list will be requested to attend this meeting:

- i. The conservation district;
  - ii. The applicant or his/her representative;
  - iii. The design Engineer of Record for the project;
  - iv. The SCC Regional Coordinator assigned to serve the area where the waiver is proposed;
  - v. NRCS staff involved or requested with the project;
  - vi. An engineering staff person either from the conservation district or NRCS to assist with engineering concerns on the site;
  - vii. DEP regional staff (if the operation is a CAFO or project involves Chapter 105 concerns);
  - viii. Local municipal official (concerning floodway authority); and
  - ix. Any other agency or governmental representatives necessary to thoroughly evaluate the site and facility proposed for construction (such as manufacturer representatives, construction contractors, soils engineers, township officials, etc.).
2. The site visit should take place no later than 20 working days after a complete waiver request has been received.
  3. The conservation district (the NMS whenever possible) will be the entity in charge at the site evaluation.
  4. The CD must record all relevant discussions or decisions that occur during the on-site evaluation of the proposed waiver. The CD will file with the proposed waiver, any findings at the site that could be used to make the determination of approval/disapproval of the waiver.
  5. The district may take pictures of the site to document the areas under evaluation, as necessary.

#### **D. Assistance available from other agencies**

1. **The NRCS staff** may provide both engineering and soils-related technical assistance during the evaluation. The NRCS also can assist the district in the interpretation of specifications used in the design, layout, construction, operation and maintenance of the manure storage facility. The NRCS may also assist the operator in the evaluation of any proposed alternatives.
2. **In the case of a CAFO, DEP** may be able to advise the district regarding additional CAFO requirements.
3. The operator or planner will contact **local government** to ensure compliance with any local ordinances relating to the installation of manure storage facilities. Ordinances should be unrelated to nutrient management or consistent with Act 38 requirements.
4. **Cooperative Extension** may be requested to provide assistance concerning specific livestock enterprises, animal housing and agronomic questions. Extension educators may also assist the operator with farm financial management and in the evaluation of funding issues.

#### **E. Criteria for considering waivers for approval**

1. Waivers shall be approved or disapproved by the CD board of directors within 90 calendar days of receiving the official waiver request. Approved waivers shall conform to all of the following criteria:
  - a. The placement of the facility outside of the setback area is physically impractical, or the placement of the facility outside of the setback area would increase the price of the facility by at least 50% or \$5,000.00, whichever is less.
  - b. The placement as recorded on the proposed waiver has been determined to adequately protect the surrounding area from offsite migration of the manure. This may be accomplished by providing a structural practice which will divert or retain a manure spill event adequately to allow for corrective action to take place. Also, it may be demonstrated that manure will not directly flow to offsite areas, or the placement of additional manure transfer facilities outside the setback area will increase the possibility of off-site migration of manure due to potential equipment malfunction.
  - c. The proposed facility meets the design criteria set forth in the PA Soil and Water Technical Guide. The contractor will certify that the facility was installed and completed according to these criteria. The actual design and installation must also be certified by a PA-licensed Engineer of Record that it meets the same standards (liquid and semi-solid storages).
2. The operator agrees that the facility will be inspected annually, when empty, to determine the general soundness and watertight integrity of the facility. Annual inspections will not be required in confined spaces, unless other problems are found to necessitate such inspections. In that case, confined space inspections shall not be undertaken without the appropriate training and safety equipment. These items will be outlined in an Operations and Maintenance Plan. If any problems or discharges are observed, a licensed engineer will be consulted to address the situation.
3. The facility loading and unloading area is designed to retain or divert from off-site migration any spills of 3,000 gallons or less. In addition to the 3,000-gallon spill retention, any proposed retention area, will be designed to capture the 25-yr., 24-hour storm event and allow for the recollection of manure.
4. The facility may not utilize a gravity unload system.
5. The foundation, walls and floor of the facility will be protected against erosion and flotation from a 25-year flood event.
6. The top of the storage is above the 100-year flood elevation.
7. A written Operation and Maintenance Plan, along with an Emergency Response Plan to deal with a major leak or spill, must be developed for the facility. The plans will be reviewed with the appropriate operator and agencies/individuals involved in its implementation.
8. Equipment used for the loading and unloading of a liquid or semi-solid facility shall be constructed with a secondary check valve, where appropriate, to ensure that manure cannot flow freely out of the storage if there is a malfunction of the primary valve.
9. If applicable, private water well construction in the area must meet criteria that

- the SCC, in consultation with NRCS, deems appropriate for the protection of water quality (i.e. Well construction meets PATG standards and specifications).
10. The certified NMS will recommend action to approve or disapprove the waiver to the district board. As mentioned above, this action by the board should take place within 90 days of receipt of the official waiver request form.

#### **F. Notifying landowners of approval/disapproval**

The district shall notify the individual requesting the waiver of its determination to approve/disapprove the waiver proposal within 100 calendar days of receipt of the waiver. This notification shall include: a description of the process used to evaluate the proposed waiver; a summary of the on-site evaluation including who attended; the criteria used to evaluate the waiver; how this proposal met or didn't met the criteria; the district's determination of approval/disapproval; and the individual's appeal rights. A sample letter to satisfy this requirement has been developed and can be found in Chapter 6, Supplement 12 of this manual.

#### **G. Multi-district arrangements**

1. In a Multi-District arrangement, if the waiver request is for an operation in the associated district, two (2) copies of all waiver requests must be submitted to the Host District.
2. Host district duties:
  - a. One copy will be kept and reviewed by the host district;
  - b. The second copy will be sent to the associate district in which the waiver is being requested to the attention of the conservation district manager; and
  - c. The district manager in the associate district may assist with the arrangements for the site visit to evaluate the proposed waiver.
3. Associate district duties:
  - a. The district manager or their designee of the associate district may also choose to send staff to the site visit and be involved in the waiver evaluation process; and
  - b. The approval and disapproval procedures are the same as for single district delegation.
4. Note: In multi-county arrangements, the host district has the qualified staff person, so the host district should be in charge of the site visit evaluation. However, the CD board of the county where the waiver is actually taking place should actually make the decision for approval or disapproval based upon the recommendation of the qualified staff.

#### **V. Processing Requests for Information on Manure Storage Setback Waivers for Neighbors**

1. The neighbor waiver from the property line setback is a written agreement between the farming operation and the neighbor stating that the neighbor allows the manure storage facility to be placed closer to the property line than the setbacks in Act 38 allow. This agreement is solely held between the 2 parties.

2. The Commission provides a “sample” neighbor waiver in the Nutrient Management Technical Manual, in supplement 16.
3. This neighbor waiver, when properly executed is to be submitted as part of Appendix 10 in the NMP.
4. Further guidance concerning “neighbor” waivers can be found in Section III of the Nutrient Management Technical Manual.
5. The commercial NMS should provide information on the “who, when, what, how, etc.” to both the farming operation and the neighbor. They should explain the waiver and try to provide clarity.
6. The reviewing conservation district is only responsible to ensure that if a waiver is needed that it is contained in the NMP (and all subsequent NMP Amendments) and that it is properly executed (i.e. All blanks filled out and signatures notarized).
7. When multiple neighbor waivers are needed, the NMS should also include a tax parcel map or a map denoting where each neighbor property is located compared to proposed manure storage to the CD or SCC.

## **VI. Guidelines on Providing Technical Assistance**

1. Conservation district technicians in the Nutrient Management Program and Manure Management Program (NM and MM Delegation) have a unique technical responsibility. As certified public NMS, they are the only persons at the local level who have the authority to review NMPs. The district, therefore, needs to set its priorities to ensure that it can fulfill this role.
2. Other technical aspects of the program are also important, including technical education for private sector specialists (commercial and individual), plan writing and plan implementation assistance. In these areas, other agencies, various organizations, businesses and district staff may be able to play a role. Because each group may reach different members of the farm community and collectively they can reach more people than the district alone, the program can benefit by allowing room for everyone to participate. In setting the following guidelines, SCC is attempting to balance the interests of farmers and the public and private consultants in a way that makes sense for the overall program.
3. In these guidelines, the term “commercial specialist” refers to both private sector planners and public employees with dual certification. Where a distinction is needed, the guidelines refer to “private sector” or “public” planners.

### **A. General guidelines**

1. The use of technical resources should be focused and the district should emphasize providing the services that others cannot provide. Accordingly, the district shall place the highest technical assistance priority on identification of new or existing CAOs, the review of submitted NMPs and compliance with those plans. The lowest priority for the district’s allocation of NM and MM delegation technical assistance should be that of complete plan development, in which the district staff would become the actual planner of record for a plan.
2. Intermediate priorities could include the following:
  - a. Assistance with development of the storm water runoff control section of plans;

- b. Assistance with development of the manure management section of plans;
  - c. Assistance with plan implementation;
  - d. Technical education for farmers wishing to become individual specialists; and
  - e. Technical education for plan development by individually certified specialists.
- 3. After ensuring that technical resources are available for plan review and implementation, the district may then allocate remaining resources to lower-priority activities. How much time is allotted to each activity will depend upon each county's individual needs. These needs should be met before the district allocates any technical resources to complete plan development by district staff. This is especially true because complete plans developed by district staff must be reviewed by certified staff from outside the district. An unintended consequence of this practice is to increase workload on staff from adjoining districts or the SCC.
- 4. Conservation district public certified staff cannot "moonlight". The SCC approved the following policy in May 2003 that states "Conservation District staff can only write NMPs as a part of their normal course of employment with the conservation district and only when directed by their Board of Directors. District staff is not permitted to write NMPs as private sector consultants."

**B. Providing a list of private sector nutrient management planners to all farmers requesting assistance in the development of plans**

The SCC will develop a list of private sector (commercially certified) NMS and make it available to districts. The CD will provide this list to all farmers requesting assistance in the development of plans. The list will be organized in alphabetical order and will include, at a minimum, each consultant's name, address, phone number and the counties he/she services. The most up-to-date official list of commercial planners can be found on PaPlants, which can be accessed from the Nutrient Management Program website.

When CDs provide the list of NMS, they will also provide a copy of the *Choosing a Nutrient Management Planner* factsheet. The factsheet can be found on the program webpage under Educational Materials or at <https://extension.psu.edu/programs/nutrient-management/educational/miscellaneous/choosing-a-nutrient-management-planner>

**C. Act 38 plan development for CAOs and CAFOs**

- 1. The district will direct CAO and CAFO operations to use private sector specialists for the development of mandatory plans. These operators may also become individually certified and write their own plan. Additionally, an employee of the operation may become certified to write the plan for the operation. The district may assist private sector commercial and individual specialists in the development of portions of the plan as requested by the specialist and as district resources allow.



2. The certified NMS who is the author of record of the plan (Section 83.261(8)) is responsible for the completeness and consistency of the entire NMP, such as: making sure the nutrient application section and the conservation plan are consistent. The planner is also charged with reviewing the plan with the operator to ensure he/she understands the plan and is capable of implementation. Districts are encouraged to provide on-site technical and educational assistance related to the storm water and manure management sections in order to enable private sector specialists to complete those sections on their own.
3. Procedures: Operators should first contact private sector commercial specialists who have indicated that they are willing to provide service in the county where the operation is located. If the operator contacts three such specialists and cannot obtain their assistance for development of the plan, the operator can request assistance from the conservation district. If only one or two commercial specialists have identified themselves as willing to work in the appropriate county, then they are the only ones the farmer needs to contact. If this is unsuccessful, the CD should contact the SCC Regional Coordinator that represents the county to discuss the situation.
4. If and when all other options have been exhausted, the district staff, if commercially (dual) certified, may be given specific permission by the SCC to become the planner of record. This request to the SCC should come from the CD Board of Directors. In most cases, the district will not be able to charge a plan development fee for providing this emergency service to the operation; however, in cases where such a fee may be allowed, the district will turn these moneys over to the SCC for deposit in the Nutrient Management Fund, or as otherwise directed by the SCC for implementation of the Nutrient Management Program. Fee structures must be approved in advance by SCC.

#### **D. Act 38 plan development for VAOs**

1. The district should encourage participation of operations that are not required to develop plans under Act-38. In an effort to provide for maximum volunteer participation, the district should inform the farm community of the options available to them for plan preparation.
2. The district should make farmers aware of the option to become individually certified to write their own plans. The district can assist in the certification process or in the development of portions of the plans done by individually certified farmers.
3. The district should provide interested farmers with a copy of the list of private sector commercially certified specialists. This will allow those farmers wishing to use the private sector specialists an opportunity to see the various individuals and companies they have to work with and to contact these people to see what they can offer in plan development. Note, that the CD should also provide a copy of the factsheet titled "Choosing a Nutrient Management Plan Writer" which can be found on the program website.
4. The district may assist these volunteer farmers, as resources allow (as in Item A above), in the development of plans, or portions of plans, at no direct cost to the farmer. All plans developed by district staff will need to be sent to another

delegated CD or the SCC for review and approval. The district is encouraged to enter into reciprocal agreements with adjoining or nearby districts for review of district-developed plans (see Chapter 1, Section III).

5. If financial assistance for NMP development for VAOs is available, the SCC may reevaluate district participation in developing plans free of charge for VAOs.

**E. Act 38 plan development for farmers in violation of The Clean Streams Law**

Under Act 38, Clean Streams Law violators may be required to submit a NMP. If the district is contacted for assistance, the district is to direct these individuals to use private sector specialists for the development of their required NMPs. The guidelines for district involvement in plan development will be the same as the guidelines outlined for CAOs and CAFOs, as described in detail in Item C above.

**F. Manure management plan development for farmers not required to fall under Act 38**

This section applies to operations requesting assistance with manure management who are not interested in a plan that meets Act 38 requirements. The district may set its own policy for the development of Manure Management Plans that meet the guidelines developed under DEP Chapter 91 regulations. When this type of work is completed by Act 38-funded or ACT-funded technicians, it shall be entered into PracticeKeeper in order for it to be noted on the appropriate quarterly report form(s) (Chapter 6, Supplement 4, Attachment G) to ensure that the SCC and DEP are apprised of all nutrient and manure management activities carried out by Act 38-funded or ACT-funded district staff.

**G. Informal, educational site visits for VAOs not receiving financial assistance under Act 38**

1. The Act 38 delegation agreement directs the district to conduct educational site visits on VAO farms who do not receive Act 38 financial assistance. The purpose of the visit is to encourage and offer technical assistance regarding NMP implementation, provide technical assistance referral to appropriate agencies (such as USDA-NRCS) and point out the benefit of limited liability protection. **These visits should be educational in nature and are considered official on-site Status Reviews.** Districts shall use the official Status Review form in order to help facilitate discussion. The visit should be recorded in the official agency file along with any significant information or notes that are generated as a result of the visit. With the exception of VAO operators receiving Act 38 financial assistance, the visits are required by the delegation agreement and the district is required to inspect, at a minimum of 1/3 of the total VAO plans, in their specific county per calendar year. Districts shall formally notify these VAOs regarding the results or findings related to the on-site visit.
2. Guidelines to follow when conducting visits to VAOs not receiving financial assistance:
  - a. Visit at least 1/3 of the VAO operations per county each year;
  - b. Operations should not be visited more frequently than once every three years, unless follow-up is requested or needed;

- c. Give immediate priority to operations in special protection watersheds;

#### **H. Multi-district arrangements**

1. Host district duties:
  - a. Provide technical assistance for operations that are referred by associate districts and fall under Act 38;
  - b. Refer technical assistance requests that are beyond the host district capabilities and duties to the appropriate agency; and
  - c. Conduct informal educational site visits for operations with VAO plans.
2. Associate district duties -- Refer technical assistance requests to the host district or the appropriate agency if staff is not qualified.

### **VII. Procedures for Conducting On-site Status Reviews**

#### **A. Overview of on-site status reviews**

On-site status reviews provide valuable information for individuals involved in implementation and administration of the program, including promotion of plan implementation, and providing for periodic review and assistance. A Supplemental Status Review Report intending to capture additional information relating to Nutrient Management Supplemental BMPs should also be included on applicable operations. This supplemental status review needs only be completed on operations that have nutrients applied to owned and rented acres. Operations that fully export their manure and do not have any pastures need not complete this supplemental status review. During the review process, give primary emphasis to education and when necessary, provide assistance to gain compliance. Following the status review site visit, operators shall be provided a copy of the status review form, which shall provide notification of compliance or areas of non-compliance. If compliance is noted, send the sample satisfactory on-site review letter (Chapter 6, Supplement 3) and a copy of the on-site review form. Additionally, send a copy of the supplemental status review report. If non-compliance is noted, the district shall follow the Compliance Strategy (Chapter 4) developed for the appropriate plan implementation scenario. If after a reasonable time your initial compliance efforts are unsuccessful, you should request assistance from the SCC Regional Coordinator. Additional detailed information related to compliance and/or enforcement activities can be found in Chapter 4 of this manual.

#### **B. Guidelines for the frequency and number of on-site status reviews**

1. CAO and CAFO operations -- On-site status reviews shall be made annually, including the year the NMP is being updated or amended, to evaluate if plans are consistent with the operation(s) and to assess plan implementation and BMP maintenance. They will be conducted by the delegated district on all CAOs annually, including the years that NMP is being updated or amended. If notified by DEP regional office staff that an inspection will be performed, Districts are strongly encouraged to coordinate their on-site status review with DEP, as a joint inspection, as scheduling allows.
2. Operations out of compliance -- The delegated CD will perform on-site status reviews on all operations thought to be out of compliance based upon complaints

or information submitted for plan implementation. If these reviews are on VAOs, they may be counted towards the annual educational visit goal (1/3 of the VAOs). As described above, non-compliance situations on CAFOs should be resolved through cooperation with the DEP Regional Office.

3. On-site Status Reviews should follow the Crop Year (CY) calendar
4. Conservation Districts that cannot perform all their yearly on-site status reviews, shall contact their SCC regional Coordinator to discuss the issue and develop a scheme for the conservation district to get “caught up”

#### **C. Prioritization scheme for on-site status reviews**

1. Operations thought to be out of compliance.
2. Operations in special protection watersheds.
3. Random selection -- Areas covered may be systematically rotated to minimize travel distances.
4. Other uniform selection methods related to program improvement or environmental protection and/or biosecurity.

#### **D. Information to be reviewed in the office and on-site includes:**

1. Plan Implementation,
2. Record Keeping,
3. Manure Storage Information and
4. Animal Concentration Areas

*Note: The official status review form is required to be used. It includes specific evaluation criteria under the broad categories above and can be found with other blank forms in Chapter 6, Supplement 3 of this manual.*

*Additionally, the Supplemental Status Form is to be used for all Status Review in the state. The Supplemental Status Form, at this time was primarily developed for Chesapeake Bay Reporting, but statewide data is helpful for planning purposes. The Supplemental Status Form is contained in Chapter 6, Supplement 3 of this manual.*

#### **E. Procedural outline for on-site status reviews**

1. Select the appropriate operations to receive status reviews in a given year. These operations should include all CAOs and CAFOs, on which status reviews are required annually (crop year). They should also include approximately one-third of the VAOs in the county, which should undergo educational visits every three years. After the selection process is complete, the procedure is as follows:
2. Contact the selected operations to schedule the status review. Notify the operator of any information that will be needed, and the amount of time needed for the review. The operator may wish to have the specialist who wrote the plan and assisting agency people present. At this time you should determine whether the operator has specific biosecurity protocols that will need to be met. If the operation is a CAFO, contact the DEP Regional Office to determine the

- possibility of a joint inspection.
3. Prior to the site visit review plan, record keeping and implementation information by following the specific review items listed on the Status Review form. Take notes or make copies of necessary information. Suggestion is to take manure sampling kits and soil sampling kits or contact information where the operator can obtain these items, as well as, extra copies of record keeping forms to the status review. Take a copy of the approved NMP, as well.
  4. Upon arrival at the site, take appropriate biosecurity measures to prevent the spread of contagious disease. Refer to the District Biosecurity Policy or the PDA Biosecurity Policy (Chapter 1, Section VII). Meet with the operator, review the planned activities for the status review and request any information that is needed.
  5. Conduct status reviews by covering all applicable sections on the status review and supplemental BMP form item by item. Review all aspects of plan implementation (required BMP implementation, manure application records, manure export records, crop yield records, etc.). Discuss BMP or practice implementation and maintenance according to the PA Soil and Water Technical Guide, and how that relates to the approved plan. Take additional notes as necessary.
  6. Inspect manure storages and manure handling areas for any visible issues or concerns. Check monitoring sites for discharges.
  7. Inspect all existing BMPs for operation and maintenance issues or concerns
  8. Inspect pastures and crop fields near stream corridors for any Critical Runoff Problem Areas
  9. Briefly discuss your findings with the operator, and any implementation, maintenance or update activities that are needed. After returning to the office, follow-up with any additional information or educational materials that will assist the operator.
  10. If and when additional expertise is needed, request assistance from appropriate technical personnel.

#### **F. Compliance Status of NMPs that Change Crop, Manure Type, or Application Season**

1. Provide guidance to conservation district regarding the compliance status of operators with Nutrient Management Plans that have changed the (1) type of manure applied to fields, (2) the crops that were grown, or (3) season of nutrient application; in regards to the approved NMP.
2. Conservation District may become aware of these situations thru On-Site Status Reviews and the viewing of on-farm records.
3. Operations that change the type of manure applied, changed the crop planned to be grown, or the season of nutrient application will require a Plan Update or Plan Amendment to be submitted and acknowledged / approved by the CD or the SCC. However, until that plan update / amendment is submitted, the operation will **not** be considered out of compliance per Act 38 regulations if there was no over-application of nutrients. This means that the operator must be cautious when swapping

out different types of manures, applying the same type of manure to a different crop, or changing the season of nutrient application. Some manures have higher nutrient values versus others. Additionally, crops do not have the same nutrient uptake as others do.

4. Below are some example scenarios:

**Scenario 1:**

A dairy operator's NMP planned for dairy heifer solid manure to be applied to a fall planted wheat field. The wheat will be harvested for grain with a yield of 60 bu./acre. The Plan called for the operator to apply 12 tons/acre of dairy heifer solid manure. This gives a positive nitrogen balance of 1 lbs. The operator ran out of heifer manure but still had dairy cow liquid manure to apply. This was not a scenario that was planned for in the NMP, but the operator decided to apply the dairy cow liquid manure regardless. In the Plan, the operator's spreader is only calibrated for 7,000 gal/acre because the liquid manure is only spread onto his corn ground. The operator decides to spread the same amount onto the wheat field in the fall. By switching to a different type of manure with not adjusting the application amount, the operator is now over applying nitrogen by 14 lbs. The operator in this scenario is considered out of compliance because of over-applying nutrients. The operator would have been able to avoid being out of compliance if the spreader is calibrated to apply at a rate of 4,500 gal/acre or below. At a rate of 4,500 gal/acre, the operator will have a nitrogen balance of 0 lbs. needed for the crop yield goal and thus would be considered still in compliance despite spreading a different type of manure to a specified crop.

**Scenario 2:**

A chicken broiler operator's NMP planned for broiler manure to be applied to a spring planted corn grain field. The corn grain was planned to have a yield of 200 bu./acre. The Plan called for the operator to apply 3 tons/acre of broiler manure which leaves a balance of 169 lbs. of N still needed. The operator decides to instead plant sorghum for grain in this field with a yield goal of 100 bu./acre. The operator still spreads manure on this field at a rate of 3 ton/acre. This scenario gives a balance of 29 lbs. of N still needed to meet the nutrient goals of the crop. This is a scenario where the operator will still be considered in compliance since there was no over-application of nutrients.

**Scenario 3:**

A finishing swine operator's NMP planned for liquid swine manure to be applied in the early fall onto a cover crop that will be burned down in the spring followed by a corn grain crop being planted. The corn grain is planned to have a yield of 160 bu./acre. An application of 5,000 gallons/acre of the swine liquid manure was not able to be applied in the early fall so the operator decided to apply the manure in the winter. Due to

this field being within 150 feet of water, this field already had a Phosphorus Index (P-Index) value of 73 for this field receiving manure in the early fall. This allows the operator to manage this field with nitrogen-based manure application rates. With the change in manure application season for this field, it now has a P-Index value of 92 which restricts the manure application rate and changes it to a phosphorus-based application rate of 2,667 gallons/acre. If the operator was to apply the 5,000 gallon/acre of manure in the winter instead of the fall, he would be applying phosphorus beyond the crops phosphorus removal rate and thus would be considered out of compliance for over applying nutrients. This is a scenario where it benefits the operator to contact their plan writer before applying the manure in order to discuss how the operator should proceed.

5. These three example scenarios point out the importance for the operators to contact their plan writer, the CD, or the SCC when making changes to the type of manure application, different crops that will be grown as compared to their NMP, or if they will be applying manure in a different season as originally planned. By contacting one of the three listed above, the operator will receive the proper assistance with making the anticipated change. This will help to prevent any over-application of nutrients.
6. It should be noted that these types of changes and this specific exception only applies when the operator is making adjustments “on the fly”. The SCC strongly encourages operators to contact their plan writer immediately once a change is decided for the plan to be properly updated / amended. This process can take anywhere from a couple weeks to several months so the operator and plan writer must plan accordingly. In other words, if an operator knows in the fall that they plan to plant a different crop in a specific field in the spring than what is called for in the NMP, then the operator should contact their plan writer in the fall to have the plan updated / amended rather than waiting until the field is about to be planted.

It is important that the operator keeps current and accurate records of the different type of manure applied, the different crop that is grown, and/or if the manure is applied during a different application season. These records should be made available to the reviewing agency when the plan update / amendment is submitted and reviewed for approval or during the annual on-site status review of the operation. If during an annual on-site status review CD staff discover that at least one of the three example scenarios has occurred, then the CD staff should do an initial calculation to determine if there was an over-application of nutrients during the inspection. If this calculation or determination is not able to be completed while on-site during the inspection, then CD staff must make this determination when they return to the office and are encouraged to call the operator with the final determination. CD staff must include in their report that is mailed to the operator the standard letter that accompanies this guidance if the operator is found to have not over-applied nutrients. If the operator did over-apply nutrients, this should be noted on the inspection report and should be included in the standard letter that is sent with the inspection report. Letter can be found in Chapter 6, Supplement 3

**G. Status Reviews for Conservation District Board of Director members or other Conservation District staff NMPs**

1. When on-site status reviews are needed for conservation district board members, or others with whom the district NMS may have a possible conflict of interest, the district NMS should notify the SCC Regional Coordinator assigned to that conservation district.
2. The SCC Regional Coordinator will then work with the conservation district to help determine how best to proceed with the review. Options may include:
  - a. the SCC actually performing the review
  - b. the SCC and the CD doing a joint review
  - c. the SCC overseeing the review.

**H. Documenting findings**

1. Complete the status review checklist and provide a copy to the operator and place a copy in the official district file. The supplemental status review report should be provided to the operator and placed in the official district file as well. Additionally, provide a copy to the specialist that prepared the NMP. The form can be used to describe plan revision and/or plan implementation actions for the operation, who can assist and when the actions are to be completed. Following the status review site visit, operators shall be provided a copy of the status review form, which shall provide notification of areas of compliance or non-compliance. A formal letter should also be mailed to the operator indicating the outcome of the on-site status review inspection. In the case of CAFOs, the appropriate DEP regional office Compliance Specialist or Water Quality Specialist Supervisor should be copied on the status review letter. If compliance is noted, send the sample satisfactory on-site review letter (Chapter 6, Supplement 3) and a copy of the on-site review form. If non-compliance issues were noted, utilize the compliance strategy (Chapter 4) plan implementation letters as the formal letter. The district will provide technical assistance as appropriate under the delegation agreement and may wish to consult with the specialist who wrote the plan. If after a reasonable time your initial compliance efforts are unsuccessful, you should request assistance from the SCC Regional Coordinator.
2. The CD will submit quarterly reports via PracticeKeeper regarding the results of on-site status reviews; such as, providing the total number of reviews, the number of satisfactory reviews and the number of follow-up reviews.
3. The CD must also include the Supplement NM BMP information when completing the status review information in PracticeKeeper. More information about the supplemental status review report and entering the information into PracticeKeeper can be found in Chapter 6.
4. Any visits made to the operation or contacts made with the operator will be recorded in the official district file when associated with on-site status reviews.

**I. Follow-up for on-site status reviews**

1. In situations where operators have requested assistance or may be out of



compliance, follow-up technical assistance visits will likely be necessary. When the visits are related to non-compliance, a final follow-up letter should be provided to the operator at such time when compliance has been achieved. A plan revision (update or amendments, depending on the situations) or follow-up visit is needed for the following:

- a. Addressing additional water contamination sources;
  - b. Revisions to nutrient application rates;
  - c. Submitting plan updates or amendments;
  - d. Revising the plan implementation schedule;
  - e. Completing necessary BMP or practice implementation and/or maintenance of BMPs; and
  - f. Completing required record keeping
2. A follow-up inspection report will be provided to the operator and included in the official district file to document satisfactory progress or completion of the above actions.
3. Additional compliance efforts, as described in Chapter 4 of this manual, will be pursued in situations where little or no progress is achieved.
  - a. The operator will be given an opportunity for consultation which will include a review of the status review reports and an on-site visit. The district should provide any additional information or educational materials that may assist the operator. If progress is achieved, a follow-up inspection report by the district will be included in the official district file.
  - b. If there is no progress, a compliance letter will be written by the district and provided to the operator summarizing the activities which are required as part of the compliance effort. Copies of the on-site status review and inspection reports may be provided to the operator. Also, a copy of the compliance letter will be included in the official district file. The district may request the SCC Regional Coordinator to assist at this stage.
  - c. Specific dates will be set for the completion of activities which take into account the operator's cropping activities, and acceptable periods for practice installation and plant growth.

#### **J. Identifying Continuous violators to the SCC**

For operations found to be continually out of compliance, districts shall refer to and follow the detailed compliance and enforcement policies that can be found in Chapter 4 of this manual.

#### **K. Multi-district arrangements**

Host and associate district shall perform on-site status reviews and compliance activities as described in A. – H. above.

## **VIII. Procedures for Conducting On-site Status Reviews for Manure Management Plans (MMPs)**

### **A. Overview of on-site MMP status reviews**

On-site status reviews provide an opportunity to share valuable information with the agricultural community including technical, financial, and compliance assistance that is available and/or necessary to adequately implement the site-specific MMPs evaluated during the status review. Status reviews provide a forum in which the information and assistance that is shared can be targeted to the specific needs of the agricultural operation visited.

Additionally, status reviews are the mechanism in which the necessary documentation is provided to PA Department of Environmental Protection (DEP) so that individuals involved in the implementation and administration of the Manure Management Program can assess the adequacy of the program to achieve water quality goals across the Commonwealth.

During the review process, the person conducting the status review should give primary emphasis to education and when necessary, provide assistance to gain compliance. Following the status review site visit, operators should be provided a copy of the Manure Management Program On-Site Status Review Form, which should provide notification of compliance or areas of non-compliance. If compliance is noted, send the sample satisfactory on-site review letter (Chapter 4 - Attachment 10) and a copy of the completed on-site review form (Chapter 4 - Attachment 9). If non-compliance is noted, the district should follow the Chapter 91 Compliance Strategy (Chapter 4 - Attachment 1) developed for the appropriate plan implementation scenario. If after a reasonable time, the District's initial compliance efforts are unsuccessful, it should request assistance from the appropriate DEP Regional Office.

### **B. Guidelines for the frequency and number of on-site MMP status reviews**

1. The District will perform status reviews on a minimum of 10 Non-CAO, Non-CAFO agricultural operations that use or produce manure (1 Fulltime Equivalent Funding or more) or 5 Non-CAO, Non-CAFO agricultural operations that use or produce manure (less than 1 Fulltime Equivalent Funding). Alternatively, the District may elect to write 10 Manure Management Plans. If a conservation district has accepted Chesapeake Bay Technician Funding, this requirement is met under the Chesapeake Bay Agriculture Inspection Program (CBAIP) required metrics under that contract and SOP (CBO-INSP-001).
2. Operations out of compliance -- The District will perform on-site MMP status reviews on all Non-CAO, Non-CAFO agricultural operations that use or produce manure and are thought to be out-of-compliance based upon complaints or information submitted for plan implementation. These status reviews may be counted towards the District's annual goal of 10 Non-CAO, Non-CAFO agricultural operations that use or produce manure (1 Fulltime Equivalent Funding or more) or 5 Non-CAO, Non-CAFO agricultural operations that use or produce manure (less than 1 Fulltime Equivalent Funding) if the

Manure Management Program On-Site Status Review Form (Chapter 4 - Attachment 9) is completed. If the status review is completed as a result of a complaint, per the Conservation District Agriculture Complaint Response Policy in Chapter 4, the following forms shall be used:

- Manure Management Program On-site Status Review Form;
  - Compliant Handling and Problem Assessment Form: and
  - PA Agricultural Investigation Form.
3. On-site MMP Status Reviews should follow the Crop Year (CY).
  4. Conservation Districts that cannot perform all their yearly on-site MMP status reviews, shall contact DEP Bureau of Watershed Restoration and Nonpoint Source Management and their SCC regional Coordinator to discuss the issue and develop a strategy for meeting the required output measures of the Nutrient and Manure Management Delegation Agreement.

**C. Recommended Prioritization strategy for on-site MMP status reviews**

The delegated District should develop a strategy to identify the Non-CAO, Non-CAFO agricultural operations to be visited for on-site MMP status reviews annually, prior to the start of each crop year. Recommended prioritization of agricultural operations to receive an on-site status review is as follows:

1. Operations thought to be out of compliance.
2. Operations in special protection watersheds.
3. Random selection -- Areas covered may be systematically rotated to minimize travel distances.
4. Other uniform selection methods related to program improvement or environmental protection and/or biosecurity.

**D. Information to be reviewed in the office and on-site includes:**

1. Verification of MMP completeness
2. MMP Implementation,
3. Record Keeping,
4. Manure Storage Information, and
5. Animal Concentration Areas

*Note: The official Manure Management Program On-Site Status Review form is required to be used. It includes specific evaluation criteria under the broad categories above and can be found with other blank forms in Chapter 4 of this manual.*

*Additionally, the Supplemental NMP Status Form is to be used for all MMP Status Review in the state. The Supplemental NMP Status Form, at this time was primarily developed for Chesapeake Bay Reporting, but statewide data is helpful for planning purposes. The Supplemental NMP Status Form is contained in Chapter 6, Supplement 3 of the PA Nutrient Management and Manure Management Administrative Manual.*

#### **E. Procedural outline for on-site MMP status reviews**

Select the appropriate operations to receive status reviews during the crop year based upon the District-developed strategy described above. After the selection process is complete, the procedure for conducting the status review is as follows:

1. Contact the selected operations to schedule the status review. Notify the operator of any information that will be needed, and the amount of time needed for the review. At this time, you should determine whether the operator has specific biosecurity protocols that will need to be met.
2. Prior to the MMP status review, review the MMP verification, MMP implementation, and record keeping by following the specific review items listed on the Status Review form, if the MMP is available to you before the visit. Take notes or make copies of necessary information. Suggestion is to take manure sampling kits and soil sampling kits or contact information where the operator can obtain these items, as well as, extra copies of record keeping forms to the status review. If available, take a copy of the MMP, as well.
3. Upon arrival at the site, take appropriate biosecurity measures to prevent the spread of contagious disease. Refer to the District Biosecurity Policy or the PDA Biosecurity Policy (Chapter 1, Section VII). Meet with the operator, review the planned activities for the status review and request any information that is needed including the MMP if unavailable at the District.
4. Conduct status reviews by covering all applicable sections on the Manure Management Program Status Review and supplemental BMP forms item by item.
5. Review all aspects of plan implementation (required BMP implementation, manure application records, manure transfer records, crop yield records, etc.).
6. Discuss BMP or practice implementation and maintenance according to the PA Soil and Water Technical Guide, and how that relates to the MMP. Take additional notes as necessary.
7. Inspect manure storages and manure handling areas for any visible issues or concerns. Check monitoring sites for discharges.
8. Inspect all existing BMPs for operation and maintenance issues or concerns.
9. Inspect pastures and crop fields to assure adequate MMP implementation.
10. Briefly discuss your findings with the operator, and any implementation, maintenance or update activities that are needed. After returning to the office, follow-up with any additional information or educational materials that will assist the operator.
11. If and when additional expertise is needed, request assistance from appropriate technical personnel.

#### **F. Status Reviews for Conservation District Board of Director members or other Conservation District staff MMPs**

1. When MMP on-site status reviews are needed for conservation district board

members, or others with whom the district NMS may have a possible conflict of interest, the district NMS should notify the DEP Regional Office assigned to that conservation district.

2. The DEP Regional Office will then work with the conservation district to help determine how best to proceed with the review. Options may include:
  - a. the DEP performing a routine inspection
  - b. the DEP and the CD doing a joint review
  - c. the DEP overseeing the review.

#### **G. Documenting findings**

1. Document the verified Manure Management Plan in the PracticeKeeper Database according to Attachment G Course on the DEP Clean Water Academy found here: <https://pacleanwateracademy.remote-learner.net/course/view.php?id=154>.
2. Complete the Manure Management Program status review checklist and attach a copy to the MMP instance in PracticeKeeper.
3. Following the status review site visit, operators shall be provided a copy of the status review form, which shall provide notification of areas of compliance or non-compliance. A formal letter should be mailed to the operator indicating the outcome of the on-site status review. If compliance is noted, send the sample satisfactory on-site review letter (Chapter 4 - Attachment 10) and a copy of the Manure Management Program On-Site Status Review form. If non-compliance issues were noted, utilize the compliance strategy (Chapter 4 - Attachment 1) and MMP SR 3-Step letters as the formal letter(s) (Chapter 4 - Attachments 11, 12, and 13).
4. If the status review was conducted in response to a complaint, follow the DEP Chapter 91 Conservation District Agricultural Complaint Response Policy (Chapter 4). The Compliant Handling and Problem Assessment Form, the PA Agricultural Investigation Form, and the Manure Management Program On-Site Status Review Form should be completed in order for the complaint response to be counted toward the District's annual status review goals.
5. If the status review was conducted in response to a complaint, reference the DEP Chapter 91 Conservation District Agricultural Complaint Response Policy and utilize the 3-step letters there within when corresponding with landowner and/or operator.
6. The District will provide technical assistance as appropriate under the delegation agreement. If after a reasonable time, your initial compliance efforts are unsuccessful, you should request assistance from the DEP Regional Office.
7. The CD will submit quarterly reports via PracticeKeeper regarding the results of Manure Management Program On-Site Status Reviews by completing the status review tab of the MMP instance in the PracticeKeeper database for each status review conducted.

## **H. Follow-up for on-site status reviews**

1. In situations where operators have requested assistance or may be out of compliance, follow-up technical assistance visits will likely be necessary. When the visits are related to non-compliance, a final follow-up letter should be provided to the operator at such time when compliance has been achieved. A plan update or follow-up visit may be needed for the following:
  - a. Addressing water contamination sources;
  - b. Revisions to nutrient application rates;
  - c. Changes to crop management represented in the MMP;
  - d. Changes to animal numbers represented in the MMP;
  - e. Adequately addressing environmentally sensitive areas;
  - f. Revising the plan implementation schedule;
  - g. Other changes in management;
  - h. Completing necessary BMP or practice implementation and/or maintenance of BMPs; and
  - i. Completing required record keeping
2. The PA Agricultural Investigation Form (Chapter 4 – Attachment 3) should be completed during the follow-up visit, provided to the operator, a follow-up status review instance should be added to the MMP instance in PracticeKeeper, and the PA Agriculture Investigation Form should be attached to the MMP instance in the PracticeKeeper Database to document satisfactory progress or completion of the above actions.
3. Additional compliance efforts will be pursued in situations where little or no progress is achieved.
  - a. The operator will be given an opportunity for consultation which will include a review of the Manure Management Program On-Site Status Review Form and an on-site visit. The district should provide any additional information or educational materials that may assist the operator. If progress is achieved, a follow-up PA Agricultural Investigation Form should be attached to the MMP inspection instance in the PracticeKeeper Database.
  - b. If there is no progress, the 2<sup>nd</sup> Step Letter (Chapter 4 - Attachment 12) should be written by the district and provided to the operator summarizing the activities which are required as part of the compliance effort. Copies of the on-site status review and PA Agricultural Investigation Form should be provided to the operator. Also, a copy of the compliance letter will be attached to the MMP instance in the PracticeKeeper Database. The district may request the DEP Regional Office to assist at this stage.
  - c. Specific dates will be set for the completion of activities which consider the operator's cropping activities, and acceptable periods for practice installation and plant growth.

## IX. Processing Act 38 Complaints

### A. Confidentiality

**The identity of all complainants will remain confidential.** Information relating to the complaint may be requested by or reported to the SCC or DEP, but the identity of the complainant will not be revealed to interested parties or to the operator that is the subject of the complaint. The identity of the complainant may only be disclosed if legally required.

### B. Authority

1. The authority for addressing complaints found in Section 504 (9) of Act 38 and from the delegation agreement. Authority to investigate complaints is also granted through separate delegation agreements under DEP regulations - Chapters 91, 102 and 105.
2. The authority to enter private property in the performance of any delegated duties under the Nutrient Management program is granted through 516(b) of Act 38.

### C. Complaint processing

*Note: The procedures in this manual cover complaints that relate to Act 38 and Chapter 91. Once it is determined which program a complaint falls under please document the complaint on the appropriate complaint handling form.*

1. Obtain all relevant facts relating to the complaint including the name, address and phone number of the complainant (see forms located in Chapter 4 Attachment 2 or Chapter 6, Supplement 1). You may wish to verify or gain additional information by talking with the complainant or scheduling a visit to the site. The complainant does not have authority to enter private property.
2. Determine the program under which the complaint falls. Complaints that are associated with other programs will fall under the complaint procedures that are required under that program. Some of these programs may include delegated duties of the district and some may not. Where the incident is not causing or threatening to cause immediate pollution or harm to the public, assistance from the Pa. Farm Bureau Environmental Coordinator Program is generally requested by the DEP Regional Offices to evaluate the complaint. Odor complaints will normally be directed to the SCCs Odor Management Program Coordinator, who will determine if the complaint is in the purview of the Act 38 Odor Management Program. Any complaints that are not within the scope of Act 38 should be directed or referred to other appropriate agencies or organizations.
3. Provide to the complainant any information that will assist in handling the complaint, or that will assist with their understanding of the situation.
4. Immediately contact the DEP Regional Water Quality Section, SCC Regional Coordinators and Pennsylvania Fish and Boat Commission regional office of any incidents causing or threatening significant water pollution (see Chapters 91, 102 and 105). These incidents would involve manure or sediment runoff, manure spills or manure storage failures that cause fish kills or result in nutrient

and/or sediment pollution directly entering streams or bodies of water. Additionally, advise the responsible party of their duty to notify the DEP and downstream users under 25 Pa. Code 91.33, regarding any pollution event or threat of pollution. If an Act 38 operator causes a pollution event, contact your SCC Regional Coordinator.

5. When more detailed information is needed for Act 38 related matters, schedule a site visit with the operator within ten (10) days of the original complaint. Review the official agency file and collect all necessary information. Consult with appropriate agencies or organizations to obtain specific information to assist with the review. Upon arrival at the site, ensure compliance with the operator's biosecurity policies, the aforementioned district and/or PDA Biosecurity Policies and take any other measures that may be required to prevent the spread of disease. Meet with the operator, review the planned activities and request any information that is needed. When the investigation is complete, discuss your findings with the operator and, if appropriate, provide information to achieve compliance. As necessary, refer the operator to appropriate agencies and organizations, or initiate direct contact to obtain more specific information.
6. Record all contacts made with the operator and document the findings of the site visit in the district official file. Provide a formal letter to the operator, indicating compliance or non-compliance issues, with a copy of the inspection report and keep a copy in the districts official file. **Keep the original complaint form with the identity of the complainant in a separate file, so that it can be kept confidential and is not subject to unauthorized review.**
7. If and when compliance activities associated with Act 38 are needed, schedule a follow-up site visit and inspection.
8. Provide a reasonable amount of time for compliance (e.g., planting season, manure application timing or proper construction seasons and procedures).
9. Provide a response back to the complainant by a phone call, meeting, e-mail or letter as appropriate.

#### **D. Follow-up visit/review**

1. When necessary, conduct a follow-up site visit or a review of appropriate information when compliance activities by the operator are required.
2. Record all contacts with the operator and significant information in the district official file.
3. Complete an inspection report.
4. If and when compliance has been achieved, provide a letter and a copy of the inspection report, to the operator documenting his/her compliance efforts and place a copy in the official district file.
5. If compliance or satisfactory progress is not achieved, follow the procedures for continuing violators found in Chapter 4. In brief, this would include an additional site visit (this could be with or without SCC staff), completion of another inspection report, and submitting a letter and copy of the inspection report to the operator. All the steps outlines in Chapter 4 (per the appropriate scenario) must be completed prior to the matter being formally referred to the SCC for



compliance/enforcement action unless there is a pollution event. CD board approval must be obtained to refer operations with continuing violations of Act 38 to the SCC unless there is a pollution event.

#### **E. Filing**

The district will submit quarterly reports to the SCC or its designee through PracticeKeeper that will, at a minimum, include the number of complaints received and investigated. For sites involving continued violations, the district will use the criteria established by the SCC for documentation and preparation of compliance/enforcement actions. Complaint records will be maintained for 5 years from the date of resolution. Authorized SCC staff may request or review any information that relates to compliance actions under Act 38.

#### **F. Multi-district arrangements**

1. Host district duties:
  - a. Take the lead in investigating complaints and compliance activities under Act 38 that are referred by the associate district. Investigation of complaints will take place within to ten (10) days of receipt of the complaint by either district; and
  - b. The host district will schedule and complete a site visit as in item C.5 above to assess the problem in cooperation with the associate district and other appropriate agencies or organizations.
  - c. Submit documentation and an explanation of Act 38 compliance efforts related to operations located in the associate district to the associate district.
  - d. Refer complaints/compliance activities that are beyond the host district capabilities and duties to the SCC or other appropriate agency.
  - e. The host district will prepare the information and transmit the materials to the SCC for approved associate district cases to be sent for enforcement under Act 38. The submitted materials will include written recommendation by the associate district board (e.g. a letter or copy of the meeting minutes) for referral to SCC for enforcement.
2. Associate district duties:
  - a. Refer complaints/compliance activities that are beyond the associate district capabilities and duties to the host district or, in the case of non-Act 38 complaints, to the appropriate agency.
  - b. Inform the host district of all complaint/compliance activities for operations that fall under Act 38 and are in the associate district.
3. Both host and associate districts will:
  - a. Handle complaints/compliance activities that are within the capabilities and duties of the district;
  - b. Document all complaint/compliance activities, and allow access by the host district and/or appropriate agencies;
  - c. Maintain records for all complaint/compliance activities for operations that are under Act 38 in the official complaint file held by the host district; and
  - d. When voluntary compliance cannot be obtained by the district for continued

violations of the regulations, the district where the operation exists will make the final decision on referral to the SCC for compliance/enforcement action.

## **X. Emergency Procedures during PDA Quarantine Situations**

### **A. Coordination with Pa. Department of Agriculture Quarantine Order**

1. PDA is authorized under the Domestic Animal Act to quarantine animal operations where they have determined that the off-site transportation of those animals, or products and byproducts of those animals (specifically including manure, manure compost and animal mortality compost), could cause a threat of spreading a contagious disease. This determination to impose quarantine on a particular operation is normally done by the state or regional veterinarian working for PDA Bureau of Animal Health and Diagnostic Services (BAHDS). When the quarantined operation is regulated under Act 38, the program may impose certain requirements and recommendations upon the operation, to ensure that the manure and other nutrient applications under these circumstances minimize the pollution of waters from agricultural nutrients.
2. The Nutrient Management Program accommodates the critical nature of these quarantine circumstances. The program recognizes that, where there may be a conflict between the quarantine order and the NMP, the quarantine order will take precedence due to the possible effect the spread of the disease could have on the particular animal industry statewide.
3. Some of the diseases that would necessitate PDA quarantine are: Avian Influenza, Bovine Spongiform Encephalopathy (BSE), Brucellosis, Foot and Mouth Disease (FMD), Paratuberculosis, Pseudorabies and Rabies. Some of these diseases would necessitate a quarantine of the manure generated on the operation and therefore remove the possibility of exporting and applying this manure to distant operations. Conservation district staff will notify their specific SCC Regional Coordinator for assistance in these situations. SCC staff will contact the appropriate PDA Regional Veterinarian to determine whether the disease in question would necessitate quarantine of the manure, manure compost and animal mortality compost, as well as the animals.
4. In order to assure the coordination of efforts between the PDA quarantine program and the Nutrient Management Program, PDA distributes a list of all operations currently quarantined under the Domestic Animal Act to the SCC. As appropriate, this list will be made available to conservation districts in counties with quarantine operations through the e-mail system or through a bi-monthly distribution of a contagious disease report.

### **B. Amending plans in emergency situations**

1. All operations that are placed under contagious disease quarantine by PDA will need to amend their NMP if the quarantine order affects the on-site utilization or transportation of the manure, manure-based compost and animal mortality compost as directed in the approved plan. These plan amendments:
  - a. Must be developed by a certified commercial NMS;

- b. Must be submitted within 30 days of implementation of the revised manure practices;
  - c. Must be retained by the operator and the district as part of the approved plan until normal operations can be resumed. Because of the emergency nature of these situations, the amendments do not need to be reviewed and approved prior to implementation; however, they will be officially reviewed and approved as soon after submission as possible.
- 2. Where these plan amendments need to be implemented continuously or periodically over a prolonged period of time (greater than three months), the amended plan submitted for the emergency situation shall be submitted with a request that it be reviewed for approval and inclusion into the original plan.
- 3. Plan amendments to address a quarantine situation may require that nitrogen be applied in amounts in excess of what the crop can utilize, because in some situations the manure may not be transported off site due to the quarantine. In those instances, the specialist shall develop an amended plan that allocates excess nitrogen to those fields that are least likely to have a negative impact on the environment. These fields should be selected based on the following criteria:
  - a. Fields farthest from streams and other sensitive areas such as wells and sinkholes;
  - b. Fields on which appropriate conservation practices are implemented;
  - c. Fields containing soils with a lower leaching potential;
  - d. Fields where double cropping may be successfully implemented;
  - e. Fields where the current crop management will allow for rapid uptake of the applied nutrients; and
  - f. Fields where the slope does not exceed 15%.
- 4. Fields that received more nitrogen than is needed, based upon realistic expected yields, shall be managed to reduce the loss of excess nutrients and monitored by the operator and district to evaluate the uptake of the nutrients on these fields. It is highly recommended that the End-of-Season Corn Stalk Nitrate Test be used to determine the existence and extent of this problem. Specific requirements and recommendations for the operator for those fields include:
  - a. Annual soil testing for phosphorus, potassium, soil pH and lime requirement;
  - b. An analysis indicating the amount of residual nitrogen left in the soil, such as the pre-sidedress nitrogen test (PSNT) in the spring following the last over application of nitrogen;
  - c. Establishment of a crop or cover crop to hold excess nutrients in place; and
  - d. Harvesting of cover crops or double crops to remove excess nutrients from the field.
- 5. It should be noted that over-application of nitrogen to a field is only allowable in those situations where a contagious disease quarantine has been imposed on the operation, where the operation's land base does not allow for the on-farm management of the nutrients and where the transportation of the nutrients off-site is restricted.

### **C. Multi-district arrangements**

1. In dealing with the required plan amendment, the associate and host districts will provide all plan amendment review activities as outlined earlier in this manual. Additionally, the host district shall provide any plan implementation oversight related in the implementation of this amended plan based on the guidelines in this manual.
2. Host district duties:
  - a. Oversee the implementation of the quarantine order as it relates to Act 38 and the amended plan to assure that implementation meets the guidelines developed by the SCC outlined earlier in this chapter; and
  - b. Review and comment on the required plan amendments related to these unforeseen circumstances.
  - c. Provide the associate district with a copy of the review comments on the plan amendment, along with any other reports, findings and recommendations.
  - d. File a copy of the approved plan amendment in the official NMP file for the operation.
3. Associate district duties:
  - a. Assist the host district as requested in all activities associated with management of the quarantine.

## **XI. Appeals of District Decisions on Act 38 Delegated Responsibilities (not related to the NMA financial assistance program)**

### **A. General requirements**

1. A final decision made by a district, such as approving or disapproving a NMP, may be appealed by any affected person. It is very important that the district follow the criteria established by the regulations (25 Pa code, Subchapter D (related to nutrient management), 83.201) related to requirements for approval of Act 38 program submission documents, such as: plans, waiver requests, plan implementation extensions, etc. Following these established criteria will assure that the district has support for any action taken under the program. Should the district become aware of a proposed appeal, they should contact their SCC Regional Coordinator as soon as possible.
2. The appeal process begins with the aggrieved party filing an appeal with the Environmental Hearing Board (EHB). The aggrieved party must file the appeal within 30 days of district action. The address for the EHB is listed below. EHB rules may be obtained from the Board at no charge. In some cases, the aggrieved person may have to retain an attorney. The DEP Office of Chief Counsel will represent the delegated conservation district and the SCC.
3. An informal administrative process may be pursued to obtain resolution and withdrawal of the appeal. The SCC Nutrient Management Program Coordinator who covers the county in question will provide the initial contact for persons who are aggrieved by decisions of the district and wish to participate in the informal reconsideration process. Therefore, aggrieved persons should contact the SCC

to request assistance in evaluating the decision of a conservation district. The SCC will send the appropriate representative to investigate the request for reconsideration. Staff will prepare a report of the investigation and make a recommendation to the Act 38 Program Director, who will inform the SCC Executive Secretary. The Executive Secretary will consider the SCC staff recommendation, develop a formal response to the request and inform the aggrieved person, the operator, the district and the Commission members regarding the proposed action. Aggrieved persons should contact the SCC at the address listed below.

4. These informal reviews may lead to a resolution and withdrawal of the appeal before it is formally heard by the EHB. However, if the aggrieved person is not satisfied by the SCC's decision under informal review, the appeal may move forward by appeal to the EHB within 30 days of the SCC decision/action.
5. It is in the best interest of the program to make these decisions at the lowest level. Therefore, all steps should be taken to find an appropriate compromise with respect to issues that could be appealed.
6. The following are examples of district decisions that may solicit an appeal and/or request for reconsideration from aggrieved persons: actions on plans or plan amendments; the district requiring plan amendments; requiring the operator to continue to solicit private sector specialists to assist with plan development; decisions on requested extensions to plan implementation; and actions on manure storage setback waivers.
7. The addresses for the various agencies are (in order of contact):
  - PA Environmental Hearing Board  
Rachel Carson State Office Building  
400 Market St.  
P.O. Box 8457  
Harrisburg, PA 17105-8457  
Phone: 717-787-3483
  - PA State Conservation Commission  
2301 North Cameron St.  
Harrisburg, PA 17110-9408  
Phone: 717-787-8821

## **B. Multi-district arrangements**

1. Host district duties: Because no final decisions are made by the host district in relation to operations within the associate district's jurisdiction, there is minimal involvement of host district staff in relation to an appeal initiated in an associate district. The host district should provide all information and reports to the associate district that may be used to support the decision of the associate district if an appeal is filed. The host district may be asked to provide technical information related to the associate district's decision in the case of an appeal. The host district should document all efforts and observations in the case that the information may be needed in an appeal of an operation in an associate district.

2. Associate district duties: All final decisions of the associate district are appealable; therefore, the district will need to retain all pertinent information related to any decisions that it makes. This includes all relevant reports and correspondence provided to the associate district by the host technician.

## **XI. CAO, VAO Withdrawal from the Program**

- A. VAO operations can withdraw from the program at any time, see Nutrient Management Program Technical Manual, Section VI Plan Amendments and Transfers, for additional details. Sample acknowledgement letters can be found in Chapter 6 of this manual.
- B. CAO and CAFO operations cannot withdraw from the program, as they are required by law to have a NMP at all times.
  1. If a CAO or CAFO reduces animal numbers or increases acres, so they are no longer considered a CAO or CAFO they must hire a certified commercial NMS to prepare a new CAO calculation that shows they are no longer a CAO or CAFO.
  2. This new CAO calculation will be reviewed, verified, acknowledged by the delegated CD and kept on file. (see Chapter 2 of this manual and the Nutrient Management Program Technical Manual for additional guidance)
    - i. Verification could include review of lease agreements or require the operator to provide written verification of a “handshake” agreement.
  3. The delegated CD or SCC will acknowledge in writing the new CAO calculation the operation is now considered a VAO.
  4. Once recognized as a VAO, the operation is now eligible to follow the VAO withdraw guidance provided in the Nutrient Management Program Technical Manual, Section VI Plan Amendments and Transfers, for additional details. Sample acknowledgement letters can be found in Chapter 6 of this manual.

# **CHAPTER 4**

## **NUTRIENT MANAGEMENT COMPLIANCE STRATEGY and DEP COUNTY CONSERVATION DISTRICT AGRICULTURAL COMPLAINT RESPONSE POLICY, GENERAL GUIDELINES PACKET**

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**I. In July 2013, the SCC approved the following Nutrient Management Compliance Strategy. All delegated conservation districts and SCC staff shall follow this approved strategy.**

Pennsylvania's conservation districts (district) and the State Conservation Commission (SCC/Commission) share joint implementation of the Nutrient Management Program under the Nutrient and Odor Management Act, Act 38 of 2005. Delegated conservation districts are authorized and entrusted with the responsibility to ensure that certain agricultural operations in their counties comply with Act 38 requirements, where appropriate. This includes the necessity of conservation districts to identify agricultural operations that may be Concentrated Animal Operations (CAOs) in their county, work with those animal operators to determine their actual CAO status and bring them into compliance with the program as well as working with non-compliant CAOs. The Commission is responsible for the enforcement of Act 38 activities on regulated agricultural operations, where non-compliance issues could not be resolved by actions of the delegated conservation district.

The following guidance outlines specific procedures approved by the Commission to be utilized by conservation districts when working with certain agricultural operations to ensure Act 38 compliance.

In situations where the animal operator is not the actual landowner of the parcel of land where the animal operation exists – SCC recommends that a copy of all compliance letters noted in this Chapter should be mailed to the actual landowner.

**II. Scenario 1. What to do when the conservation district suspects an animal operation to be a CAO:**

There are two different options that a district can utilize in the determination of whether or not an animal operation is a CAO.

Option 1 - Preferred Method. Work one-on-one with the animal operator to assist them in completing the CAO assessment worksheet:

- A. Visit the operation and complete the 'Penn State Agronomy Fact Sheet 54' worksheet with the animal operator. If the assessment identifies the operation as a CAO, move on to item "2".
  1. If the assessment demonstrates that the operation **is not** a CAO, the district should send a follow up letter (standard compliance 'Letter 1.A') to the animal operator confirming the animal and acreage numbers collected during the site visit; the calculated animal density; and direct the animal operator to contact the conservation district if

the figures in the letter are incorrect. This letter should also provide the animal operator with information relating to their responsibility to obtain a Manure Management Plan (MMP) and direct them to where they can obtain assistance to develop a MMP.

2. If the assessment shows that the operation **is a** CAO, the district should send an initial 'notification' letter (standard compliance 'Letter 2.A') explaining, to the animal operator, their obligations under Act 38 and establish a compliance timeline.
3. If the animal operator does not respond to this initial compliance request, go to Scenario 2.B ("CAOs which have not obtained an approved Nutrient Management Plan") of this document.

**Option 2 - Non-preferred Method.** This process should be used after three (3) unsuccessful attempts to arrange a meeting with the animal operator. This second option relies on written correspondence for initial communication. Using this option the district should:

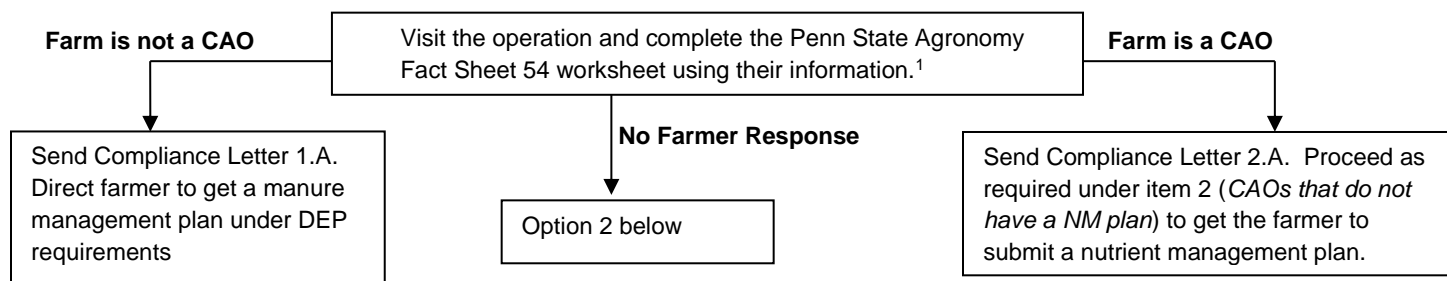
- A. Send an initial 'notification' letter (standard compliance 'Letter 1.B') to the animal operator with a copy of the 'Penn State Agronomy Fact Sheet 54' worksheet requesting the animal operator complete, sign and date the worksheet, and return it to the conservation district within 14 days. *Note: A submission date should be stipulated in the letter.*
- B. If the conservation district does not receive a response from the animal operator within the 14-day timeframe, a second 'notification' letter (standard compliance 'Letter 1.C') with a copy of the 'Penn State Agronomy Fact Sheet 54' should be sent to the animal operator, again, requesting the animal operator complete, sign and date the worksheet and return it to the conservation district office within 7 days. *Note: A submission date should be stipulated in the letter.*
- C. If the conservation district does not receive a response from the farmer within the 7-day timeframe stipulated in 'Letter 1.C', the conservation district's third communication effort should include a final call to the animal operator to arrange a site visit to assist the operator in the completion of the 'Penn State Agronomy Fact Sheet 54' worksheet or complete the worksheet over the telephone with the operator. The district should send a follow up letter (standard compliance 'Letter 1.D') to the animal operator to confirm the time and date of the scheduled visit. If the worksheet is completed over the phone with the operator, the verbal communication with the operator should be recorded in the district's files.
- D. If the conservation district cannot arrange a site visit with the animal operator, the district should send a fourth 'notification' letter (standard compliance 'Letter 1.E'), by certified USPS mail (return receipt requested

and regular mail), to the animal operator (cc'ing the SCC Regional Nutrient Management Program Coordinator). The fourth 'notification' letter should indicate the date and time of the site visit to be performed by conservation district staff and requesting the animal operator to call the conservation district if he/she cannot meet at this date and time and schedule an alternative meeting time. If the animal operator does not show for this appointment, the district should contact the SCC Regional Nutrient Management Program Coordinator to determine the next step.

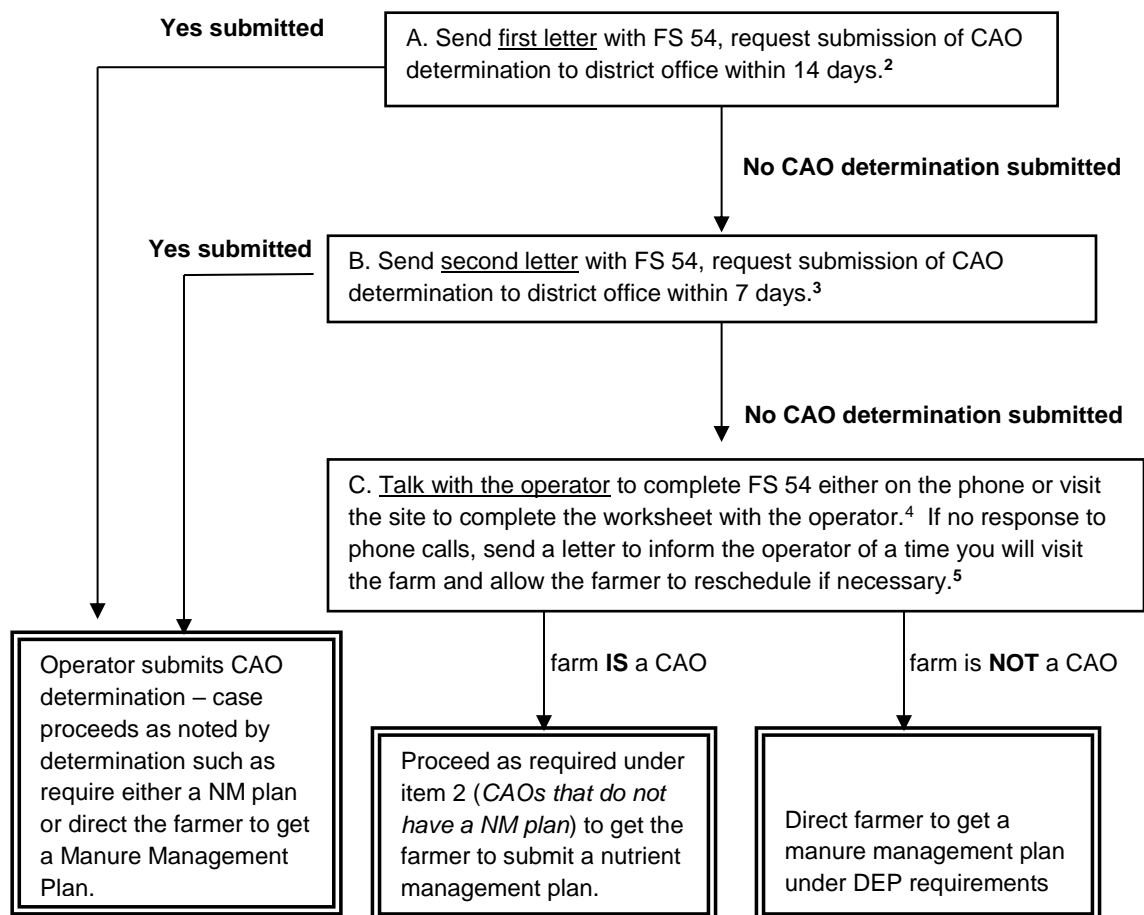
- E. The conservation district may request the assistance of their assigned SCC Regional Nutrient Management Program Coordinator at any time to help in determining how best to approach the animal operator to obtain the necessary information directly from the animal operator for evaluation of the CAO status of the operation.

**The following decision tree is provided as an example of the above strategy:**  
**What to do when the conservation district office suspects an animal operation to be a Concentrated Animal Operation (CAO)**

Option 1 (preferred): follow the below decision tree:



Option 2 - follow the below decision tree:



- 1 = Standardized compliance letter "1.A"
- 2 = Standardized compliance letter "1.B"
- 3 = Standardized compliance letter "1.C"
- 4 = Standardized compliance letter "1.D"
- 5 = Standardized compliance letter "1.E"

**The following standard letters are provided for the above strategy:**

**Letter 1.A**

**Date**

**Animal operator Name (husband and wife (if known))**

**Address**

**Re: Confirmation of information provided to calculate animal density status**

Dear Mr. and Mrs. **[Animal operator Name]**,

Thank you for speaking with me on **[date<sup>1</sup>]** in order to work you through the animal density calculation for your animal operation located at **[address<sup>2</sup>]**, **[County<sup>3</sup>]** County. As we discussed, the animal density of your animal operation is the determining factor in assessing if it is considered a Concentrated Animal Operation (CAO) required to comply with Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005). Based on the information that I recorded during our discussion you are not considered a CAO under Act 38 of 2005 and therefore the requirements under this law do not pertain to you.

Given that you generate and/or utilize manure you are still required to develop and implement a written **Manure Management Plan (MMP)**, under The Pennsylvania Clean Streams Law and Chapter 91. A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan, is attached to this letter.

The following is the information that I recorded during our discussion on **[date<sup>1</sup>]** when calculating the animal density of your animal operation. Any operation with an animal density over 2.00 AEUs (Animal Equivalent Units) per acre, with a minimum of 8 AEUs, is considered a CAO and obligated to follow the requirements of Act 38 of 2005. If any of this information is incorrect, please contact me within one week of receiving this letter so that I can update our files and help support your compliance efforts.

Animal type	Animal number	Animal weight	Days on operation	Calculated AEUs
Total AEUs for the operation				
Total acres of cropland, hayland and pastureland				
<b>AEUs per acre</b>				

Please feel free to contact me if I can be of any assistance in helping you understand or comply with your manure management planning obligations. Implementing a proper Manure Management Plan is an important part of any farm's operation as they handle or apply manure. These plans help protect animal health, improve animal performance and productivity, improve crop productivity, maintain good soil health, maintain a clean environment and enhance good neighbor relations.

Sincerely,

*NM Staff Person*

Enclosure: DEP Manure Management Manual and guidance

Cc: File

*Date*<sup>1</sup> = date you talked to the farmer to determine his animal density

*Address*<sup>2</sup> = address of the farm in question

*County*<sup>3</sup> = Your county name

## Letter 1.B

**Date**

**Animal Operator Name (husband and wife (if known))**

**Address**

### **Re: Calculating animal density to ensure compliance with Pa's Nutrient Management Act**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is a follow up to our recent phone calls on **[Date and Time<sup>1</sup>]** where we tried to meet with you to provide information and direction to you in regards to calculating the animal density of your animal operation in order to assess compliance with Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005). As was expressed to you in phone calls, Act 38 obligates high animal density operations (referred to as Concentrated Animal Operations, or CAOs) to develop and implement approved Nutrient Management Plans.

The county conservation district is delegated by the Pennsylvania State Conservation Commission (SCC) the responsibility to ensure that all CAOs in the county have developed and are following the required Nutrient Management Plans (NMPs). As part of that responsibility, I am confirming animal density for operations that are likely to fall under this law. I am sending this letter for the purpose of providing you with a worksheet for determining whether or not you are a CAO, obligated to follow the requirements under Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005), and to request your cooperation in documenting your animal density determination.

Please find enclosed with this letter Penn State *Agronomy Facts #54* which includes a worksheet used to determine if you are a CAO. I have also enclosed an enlarged copy of the animal density worksheet from the back of Penn State Agronomy Facts #54 for your convenience. It is this worksheet that I am requesting you complete and return to the **[County<sup>2</sup>]** County Conservation District by **[Date<sup>3</sup>]**. You will need to include on the worksheet your name, contact telephone number where you can be reached, your signature and the date you completed the worksheet. Please note that you need to count all livestock and poultry raised or maintained on your operation, as well as account for all cropland, hayland or pastureland that you farm.

In completing the enclosed animal density worksheet you will have taken the first step in assuring your operation is in compliance with the Nutrient Management Law – Act 38. If, based on completing the worksheet, your animal operation is a CAO; the submission of this worksheet will allow us to begin to assist you in meeting the

established requirements. If you don't fall under this law, the submitted worksheet will establish your animal density and provide the necessary documentation to relevant agencies and individuals that may question your compliance. We cannot document your manure management compliance efforts until we receive your completed worksheet.

Understand that if your animal operation is not a CAO, you will still need to develop and implement a written Manure Management Plan (a less detailed plan than a Nutrient Management Plan) required for all lower intensity animal operations. Once we receive and confirm your completed animal density worksheet, we will send you information to assist you in meeting either the Nutrient Management Planning or Manure Management Planning requirements.

If you have any questions or need assistance regarding Pennsylvania's Nutrient and Odor Management Law or completing the enclosed worksheet, please contact me at [Phone Number<sup>4</sup>]. The conservation district is available to assist you in your efforts to comply with this and all other environmental laws. We commonly assist producers with their animal density calculations, provide a list of certified planners who can develop their Nutrient Management Plans, help obtain any cost share that may be available for plan development and implementation, and facilitate understanding of the requirements of the law and other aspects of the program.

Sincerely,

*NM Staff Person*

Enclosure: *Agronomy Facts #54*  
Enlarged Animal Density Worksheet  
Cc: File

*[Date and Time<sup>1</sup>] = Date and time that you tried to contact farmer*

*[County 2] = Your district address*

*[Date 3] = This date should be approximately 14 days from the anticipated arrival of the letter*

*[Phone Number 4] = Your office phone number*



## Letter 1.C

**Date**

**Animal operator Name (husband and wife (if known))**

**Address**

### **Re: Calculating animal density to ensure compliance with Pa's Nutrient Management Act**

Dear Mr. and Mrs. **Animal operator Name**,

This letter is a follow up to our letter on **[Date<sup>1</sup>]** where we asked you to provide information in regards to calculating the animal density of your operation in order to assess compliance with Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005). As was expressed to you in phone calls and our letter, Act 38 obligates high animal density operations (referred to as Concentrated Animal Operations, or CAOs) to develop and implement approved Nutrient Management Plans.

The county conservation district is delegated by the Pennsylvania State Conservation Commission (SCC) the responsibility to ensure that all CAOs in the county have developed and are following the required Nutrient Management Plans (NMPs). As part of that responsibility I am confirming animal density for operations that are likely to fall under this law. I am sending this letter for the purpose of providing you with a worksheet for determining whether or not you are a CAO, obligated to follow the requirements under Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005), and to request your cooperation in documenting your animal density determination.

Please find enclosed with this letter Penn State *Agronomy Facts #54* which includes a worksheet used to determine if you are a CAO. I have also enclosed an enlarged copy of the animal density worksheet from the back of Penn State Agronomy Facts #54 for your convenience. It is this worksheet that I am requesting you complete and return to the **[County<sup>2</sup>]** County Conservation District by **[Date<sup>3</sup>]**. You will need to include on the worksheet your name, contact telephone number where you can be reached, your signature and the date you completed the worksheet. Please note that you need to count all livestock and poultry raised or maintained on your operation, as well as account for all cropland, hayland or pastureland that you farm.

In completing the enclosed animal density worksheet, you will have taken the first step in assuring your operation is in compliance with the Nutrient Management Law – Act 38. If, based on completing the worksheet, your animal operation is a CAO; the submission of this worksheet will allow us to begin to assist you in meeting the established requirements. If you don't fall under this law, the submitted worksheet will

establish your animal density and provide the necessary documentation to relevant agencies and individuals that may question your compliance. We cannot document your manure management compliance efforts until we receive your completed worksheet.

Understand that if your animal operation is not a CAO, you will still need to develop and implement a written Manure Management Plan (a less detailed plan than a Nutrient Management Plan) required for all lower density animal operations. Once we receive your completed animal density worksheet, we will send you information to assist you in meeting either the Nutrient Management Planning or Manure Management Planning requirements, depending on your animal density.

If you have any questions or need assistance regarding Pennsylvania's Nutrient and Odor Management Law or completing the enclosed worksheet, please contact me at [Phone Number<sup>4</sup>]. The conservation district is available to assist you in your efforts to comply with this and all other environmental laws. We commonly assist producers with their animal density calculations, provide a list of certified planners who can develop their Nutrient Management Plans, help obtain any cost share that may be available for plan development and implementation, and facilitate understanding of the requirements of the law and other aspects of the program.

Sincerely,

*NM Staff Person*

Enclosure: *Agronomy Facts #54*  
Enlarged Animal Density Worksheet  
Cc: File

*[Date<sup>1</sup>] = Date that 1<sup>st</sup> letter was sent*

*[County 2]= Your district address*

*[Date 3]= This date should be approximately 7 days from the anticipated arrival of the letter*

*[Phone Number 4] = Your office phone number*

**Letter 1.D (sent certified mail, return receipt requested)**

**Date**

Certified

Mail: \_\_\_\_\_

**Animal operator Name (husband and wife (if known))**

**Address**

**Re: Calculating animal density to ensure compliance with Pa's Nutrient Management Act**

Dear Mr. and Mrs. **Animal operator Name**,

This letter is a follow up to our recent telephone call where we agreed to meet at your operation on **[Date and Time<sup>1</sup>]**. The purpose of this visit is to assist you in determining and documenting the animal density of your animal operation for determining your nutrient management planning requirements. As stated in my two earlier letters, high animal density operations (referred to as Concentrated Animal Operations or CAOs) are required to develop Nutrient Management Plans consistent with the requirements under Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005), where lower animal density operations are required to develop a Manure Management Plan which is less detailed in its content.

Please find enclosed with this letter Penn State *Agronomy Facts #54* which we will complete to determine if you fall under the Act 38 requirements. I have also enclosed an enlarged copy of the animal density worksheet from the back of *Agronomy Facts #54* for your convenience. It is this worksheet that we will work through together on **[Date and time<sup>1</sup>]**. In order to minimize the time needed to work through this calculation, I would ask that you have ready the number and average weight of each animal type you have on the operation, as well as the number of cropland, hayland and pastureland acres that you farm.

If you have any questions regarding this meeting please feel free to contact me at the conservation district office, phone number **[Phone Number<sup>2</sup>]**. I look forward to meeting with you on **[Date and time<sup>1</sup>]**.

Sincerely,

*NM Staff Person*

Enclosure: *Agronomy Facts #54*  
Enlarged Animal Density Worksheet

Cc: File

*[Date and Time<sup>1</sup>] = Date and time that you agreed with the farmer, to meet out at his/her farm*

*[Phone Number<sup>2</sup>] = Your office phone number*

Letter 1.E (sent certified mail, return receipt requested)

Date

Certified

Mail: \_\_\_\_\_

Animal operator Name (husband and wife (if known))

Address

Re: **FINAL NOTICE** - Calculating animal density to ensure compliance with Pa's Nutrient Management Act

Dear Mr. and Mrs. Animal operator Name,

This letter is a follow up to my two previous letters dated [Dates<sup>1</sup>] and serves as our final notice to provide information and direction to you in regards to calculating and documenting the animal density of your animal operation in order to assess compliance with Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005). As was expressed to you in my earlier letters, Act 38 obligates high animal density operations (referred to as Concentrated Animal Operations, or CAOs) to develop and implement approved Nutrient Management Plans (NMPs).

You have yet to submit to our office the completed animal density calculation worksheet that has been provided to you in two previous letters. I am sending this third and final letter to you for the purpose of establishing a time when I will be at your animal operation to meet with you to complete the animal density worksheet used for determining whether or not you are a CAO obligated to follow the requirements under Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005).

I will be at your animal operation on [Day, Date and Time<sup>2</sup>] to work with you to complete the animal density calculation worksheet. You (or your representative) need to be present at this meeting in order to work through the animal density calculation. **If you or your appointed representative cannot be present at this meeting, please contact me by [Date<sup>3</sup>] so that we may reschedule at a time that meets your availability.**

Please find enclosed with this letter Penn State *Agronomy Facts* #54 which we will complete to determine if you fall under the Act 38 requirements. It is this worksheet that we will work through together on [Date<sup>2</sup>]. In order to minimize the time needed to work through this calculation, I would ask that you have ready the number and average weight of every animal type you raise or maintain on the animal operation, as well as the number of cropland, hayland and pastureland acres that you farm.

If you have any questions regarding this meeting or the information we will be discussing at the meeting, please feel free to contact me at the conservation district office at [Phone Number<sup>4</sup>]. I look forward to meeting with you on [Date<sup>2</sup>].

Sincerely,

*NM Staff Person*

Enclosure: Agronomy Facts #54

CC: File  
SCC Regional Coordinator

Date<sup>1</sup> = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer for the purpose of calculating animal density

Day, Date and Time<sup>2</sup> = The day of the week, date and time that you decide to meet with the farmer out at his/her site recognizing that you are not sure of the farmer's availability. This should be a date approximately 2 weeks off so to provide time for the farmer to clear their schedule or reschedule the meeting.

Date<sup>2</sup> = Date you selected to meet on the farm

Date<sup>3</sup> = select a date that is approximately 7 days from the original meeting date.

Phone Number<sup>4</sup> = Your office phone number

### III. Scenario 2. CAOs which have not obtained an approved Nutrient Management Plan (NMP)

Conservation Districts are instructed to assist non-compliant CAOs to ensure that they develop and submit an Act 38 NMP, and work with the planner and the animal operator to obtain plan approval. The SCC encourages the use of a 3-step notification procedure to bring non-compliant CAOs into compliance.

After determining that a particular operation is a non-compliant CAO required to develop and implement a plan under Act 38, the conservation district shall:

- A. Send a formal first 'notification' letter to the CAO (standard compliance 'Letter 2.A') operation informing the animal operator of their obligations under Act 38, and indicating the animal operator has 60 days to submit a plan for review by the district. *Note: A submission date should be stipulated in the letter.* A copy of the most current list of Commercial Nutrient Management Specialists (NMSs) working in the county, found at <http://www.paplants.state.pa.us>, shall be included with the letter. The NMS selected by the animal operator should contact the conservation district office within 30 days of the date of the letter to verify that the animal operator is working with the planner to develop a plan. This notification would allow the planner and reviewer to set up any plan submission or joint site visit schedules to facilitate the development and processing of the plan.
- B. If the animal operator does not submit a plan within 60 days of the first 'notification' letter sent to them, the conservation district will verbally communicate with the animal operator (either by telephone or in person), expressing the urgency to address this issue. A second 'notification' letter (standardized compliance 'Letter 2.B') informing the animal operator of their obligation under Act 38 should be sent to the animal operator following the verbal communication. In this letter, the conservation district shall provide the animal operator 30 days to submit a plan to the district for review. *Note: A submission date should be stipulated in the letter.* The NMS selected by the animal operator should contact the conservation district office within 15 days of the date of the letter to verify that the animal operator is working with the planner to develop a plan.
- C. If an animal operator does not submit a plan within the second 30-day period, the conservation district shall again call the animal operator to explain the urgency of this issue, and send the third 'notification' letter (standardized compliance 'Letter 2.C' – 'Final Notice') indicating this is the animal operator's last chance to comply with Act 38 requirements prior to the conservation district recommending the case to the Commission for enforcement. The letter will provide a final 15 days to submit a plan. *Note: A required submission date should be stipulated in the letter.* The third

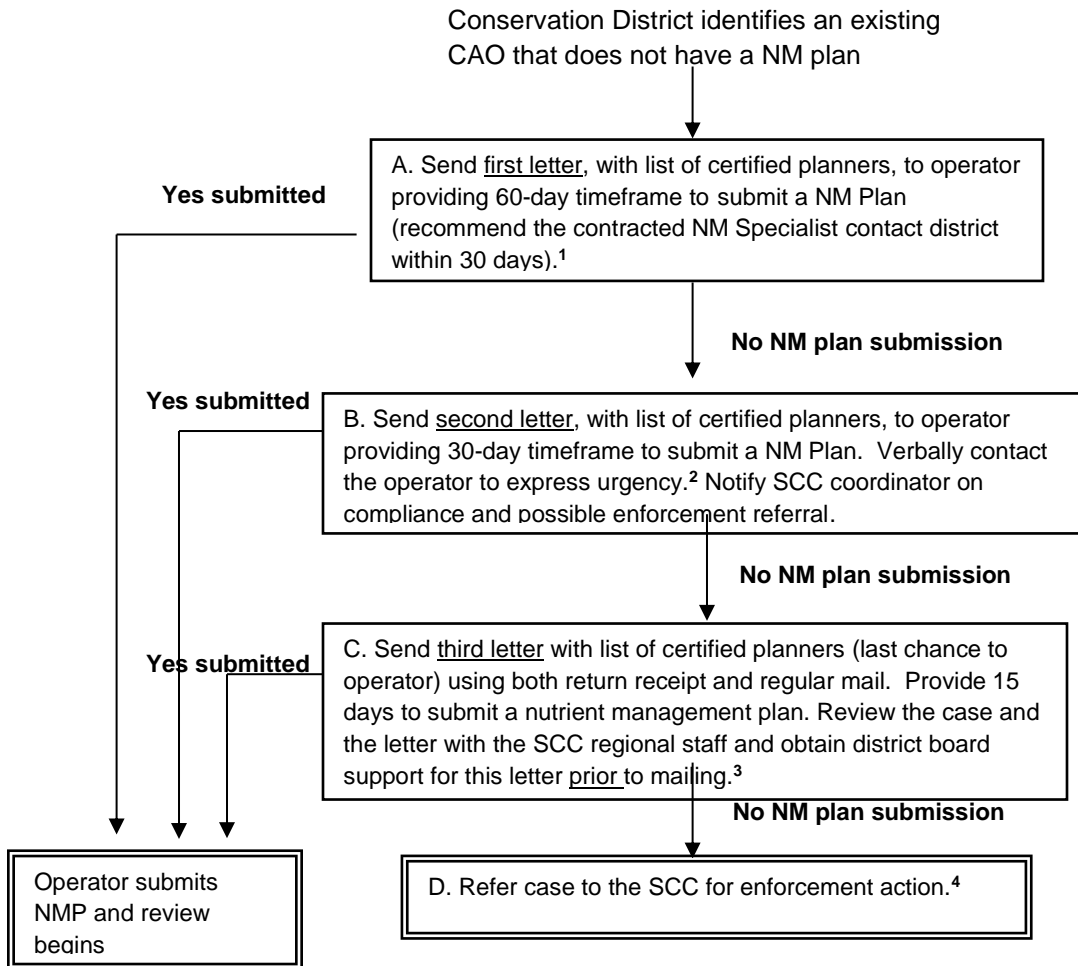
'notification' letter should be sent certified USPS mail (return receipt required) and regular USPS mail.

- D. Prior to sending the third 'notification' letter, the conservation district will review the case with their SCC Regional Nutrient Management Program Coordinator for guidance concerning the district's referral options. The district staff should review this case and letter with the Conservation District Board of Directors prior to mailing. The Board at that time should give the district manager the authority to refer the case to SCC for enforcement if the animal operator does not respond to this third letter. This action of the board should be recorded in their meeting minutes.
- E. If the plan is not submitted by the animal operator within the final 15-day period as stipulated in the letter, the Board's previous action to refer the case to the SCC for enforcement stands and the district manager will forward the information relating to this situation to the Commission. See Section VI of this chapter for this guidance which outlines the information required to be submitted by the conservation district for a referral case.



**The following decision tree is provided as an example of the above strategy**

**CAOs that have not obtained an approved NMP**



1 = Standardized compliance letter "2.A"

2 = Standardized compliance letter "2.B"

3 = Standardized compliance letter "2.C"

4 = See Section VI. Specific guidance related to the processing of Act 38 enforcement cases

**The following standard letters are provided for the above strategy:**

**Letter 2.A**

**Date**

**Animal operator Name (husband and wife)**

**Address**

**Re: Requirement to Obtain an Approved Nutrient Management Plan**

Dear Mr. and Mrs. **Animal operator Name**,

According to our best information, your animal operation is defined as a Concentrated Animal Operation (CAO) under Act 38 of 2005, commonly referred to as Pennsylvania's Nutrient and Odor Management Act. Since you fall under the CAO designation, you are obligated to follow the Act 38 regulations which require you to obtain and implement an approved Nutrient Management Plan (NMP). The Pennsylvania State Conservation Commission (Commission) administers this law; however, the Commission delegates certain authority and responsibility to the conservation district to help animal operators understand and comply with their legal obligations under this law.

Attached you will find a list of certified nutrient management planners to assist you in developing a NMP under this program. Please contact multiple planners to find the specialist that will best meet your needs in the timeframe provided. Once the specialist completes your plan, it must be submitted to the conservation district for review to ensure it meets all program criteria. Once the NMP is approved, you will be obligated to implement the provisions of that NMP.

In order to meet the State Conservation Commission's compliance timeline you will need to submit a NMP to our office for review (within 60 days) by **[Date<sup>1</sup>]**. We recommend that you contact a planner within the next 5 days in order to start the process recognizing the time it can take to develop a NMP. Please have your planner contact our office, within 30 days, so we can indicate to the Commission that you are proceeding with complying with the law.

In closing, please be aware that any violation of Act 38 subjects you to possible enforcement actions, such as fines and/or orders, as provided by the law. The **[District<sup>2</sup>]** wants to help you understand and meet the requirements under this law and we hope that our direction provided in this letter will assist you in complying so that you will not be subject to enforcement actions. If you have any questions relating to this obligation, please contact me at the conservation district office at **[Phone Number<sup>3</sup>]** so that I can provide whatever additional direction you may need. I look forward to working with you as you proceed to meet your obligations under this law.

Sincerely,

*NM Staff Person*

Enclosure: Commercial Nutrient Management Specialist list

cc: File

Date<sup>1</sup> = This date should be about 60 days from the date the letter is expected to reach the farmer

District<sup>2</sup> = the name of your conservation district such as "Lebanon County Conservation District"

Phone Number<sup>3</sup> = Your office phone number

**Letter 2.B**

**Date**

**Animal Operator Name (husband and wife)**

**Address**

**Re: Requirement to Obtain an Approved Nutrient Management Plan**

Dear Mr. and Mrs. **-Animal Operator Name,**

This letter is being sent as a follow up to my previous letter dated **[Date<sup>1</sup>]** informing you of your nutrient management planning obligation as a Concentrated Animal Operation (CAO) under Act 38 of 2005 (commonly referred to as Pennsylvania's Nutrient and Odor Management Law).

The **[District<sup>2</sup>]** has not received a copy of your submitted nutrient management plan within the 60-day timeframe provided in our previous letter. You are currently considered to be out of compliance with Act 38 of 2005. To gain compliance you are required to work with a certified nutrient management planner (I am again including a copy of the planner list for **[County<sup>3</sup>]** County) to develop and submit a nutrient management plan (NMP) to the conservation district for review and action.

In order to come into compliance with the State Conservation Commission's (SCC) compliance obligations, you will need to submit a NMP to our office for review, (within 30 days) by **[Date<sup>4</sup>]**. We recommend that you contact a planner within the next 2 days in order to start the process. Once you have contracted with a certified planner, have that planner contact our office, within 15 days, so that we can indicate to the SCC that you are in the process of complying with the law.

If you have any questions relating to this obligation, please contact me at the conservation district office at **[Phone Number<sup>5</sup>]** so that I can provide whatever additional direction you may need.

Sincerely,

*NM Staff Person*

cc: File

Enclosure: Commercial Nutrient Management Specialist list

**Date<sup>1</sup>** = Date of first strike letter

**District<sup>2</sup>** = Your conservation district name

**County<sup>3</sup>** = The county where the farmer resides

**Date<sup>4</sup>** = This date should be about 30 days from the date the letter is expected to reach the farmer

**Phone Number<sup>5</sup>** = Your office phone number

**Letter 2.C (sent certified mail return receipt requested and regular mail)**

**Date**

Certified Mail: \_\_\_\_\_

**Animal Operator Name (husband and wife)**  
**Address**

**Re: FINAL NOTICE - Requirement to Obtain an Approved Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is a follow up to staff's two previous letters dated **[Dates<sup>1</sup>]** and serves as our final notice to inform you of your legal obligation to submit a Nutrient Management Plan (Plan) to the conservation district for review and action.

You have not complied with the Plan submission timeframes provided in our previous two letters. **This letter represents your last chance to avoid having penalties or other enforcement actions taken against you due to non-compliance with the plan submission obligations under Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005).** Failure to heed this final notice will necessitate the referral of your case to the State Conservation Commission where they are likely to take an enforcement action against you.

**You must submit a nutrient management plan to our office for review (within 15 days) by **[Date<sup>2</sup>]**.** If you are currently working with a certified commercial nutrient management specialist to develop your plan, please have that person contact me so that I can document your efforts to meet your legal obligations.

If you have any questions relating to this obligation, please contact me at the conservation district office at **[Phone Number<sup>3</sup>]** so that I can provide whatever additional direction you may need.

Sincerely,

**[CCD<sup>4</sup>] District Manager**

cc: **SCC Regional NMA Coordinator**  
File

Dates<sup>1</sup> = Dates (2 dates) of first and second letters (2.A and 2.B) sent to the farmer for the purpose of calculating animal density

Date<sup>2</sup> = This date should be about 15 days from the date the letter is expected to reach the farmer

Phone Number<sup>3</sup> = Your office phone number

CCD<sup>4</sup> = The name of your conservation district Signatory District Manager

Name<sup>5</sup> = Name of CD staff person (typically the NMS) who will be performing the onsite visit

#### IV. Scenario 3. Act 38 participants whose plans are about to, or have expired.

CAOs are required to maintain a valid and current nutrient management plan. VAOs are also obligated to maintain a current plan if they wish to continue participation in the program. For CAOs (or VAOs) implementing a 3-year plan the animal operator is required to ensure they have a valid and current plan every 3 years. For CAOs (or VAOs) implementing one or two year plans with annual plan updates, this effort is required more frequently, based on the lifespan of the plan.

In order to ensure that the CAO & VAO has a valid and current plan, the conservation district should implement the following:

- A. April 1 or at least 6 months prior to the expiration of an Act 38 participant's current NMP, the conservation district will send a first 'notification' letter (standardized compliance letters 3.A.CAO or 3.A.VAO) to the animal operator. This letter should inform the animal operator of their obligation under Act 38 to retain a current nutrient management plan and request submittal of 1) a plan consistent with the current operation or 2) other valid documentation such as written verification from a certified nutrient management specialist noting the current plan for the operation meets the Act 38 requirements.
- B. If the animal operator does not submit the required documentation (amended or updated plan, or letter of continued plan validity from the planner) by the date stipulated in the letter, the conservation district will send a second 'notification' letter (standardized compliance letters 3.B.CAO or 3.B.VAO) to the animal operator. The letter should indicate the animal operator's plan maintenance requirement under Act 38, directing the animal operator to submit an appropriate plan or documentation within 60 days.
- C. By September 1<sup>st</sup>, if the animal operator does not respond within the 60-day time period stipulated in the second notification, the conservation district will send a third 'notification' letter (standardized 'Letter 3.C.CAO' or 'Letter 3.C.VAO' - 'Final Notice') informing the animal operator that they have 30 days to submit the required plan or documentation to the conservation district. If a response to the third 'notification' letter ('Final Notice') is not received by September 30<sup>th</sup> of the current year by the conservation district the CAO operation will be referred to SCC for possible enforcement action. In the case of a VAO, the operation may be removed as a participant in the program.

The third 'notification' letter should be sent certified USPS mail (return receipt required) and through regular USPS mail.

- D. Prior to sending the third 'notification' letter ('Final Notice'), the conservation district shall review the case with their SCC Regional Nutrient Management Program Coordinator for guidance concerning the

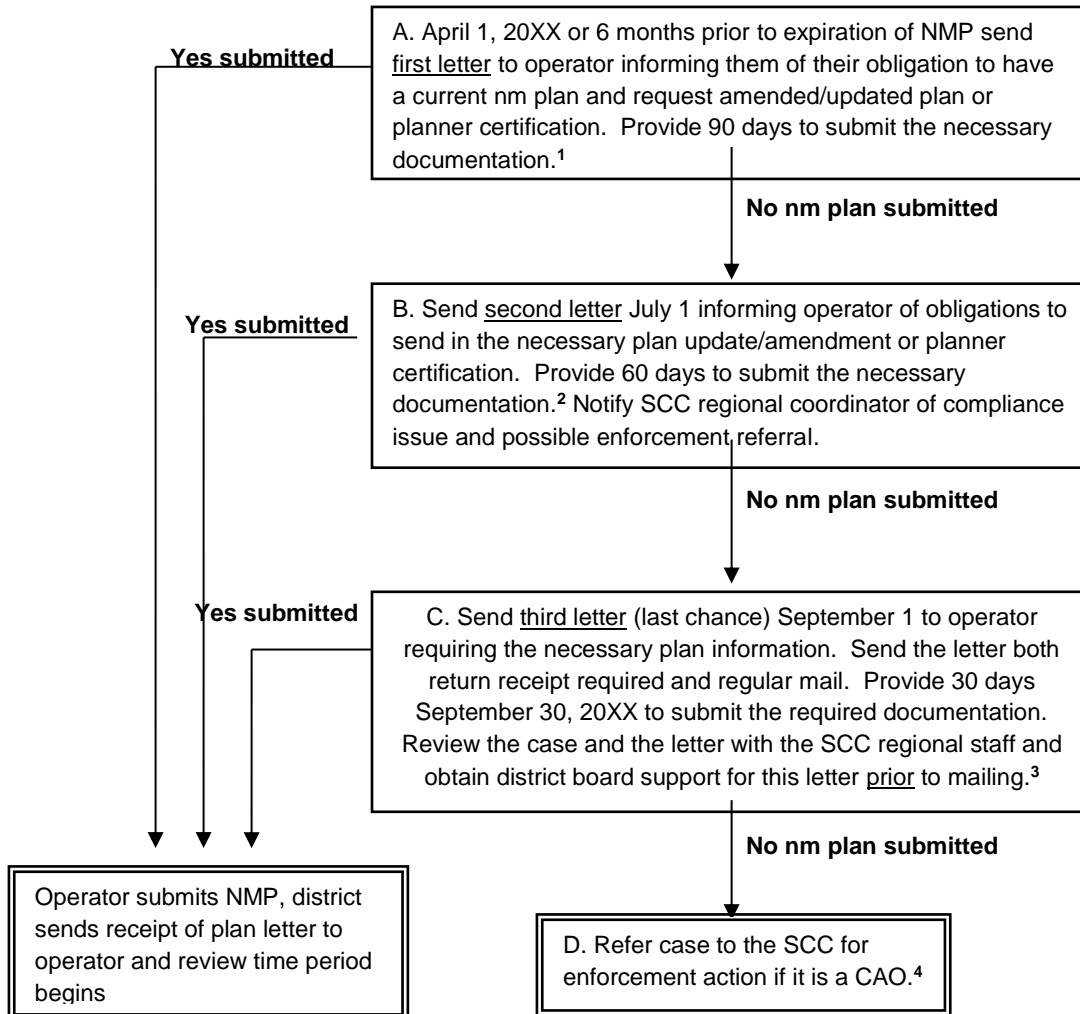


district's referral options. For CAOs, the district staff shall also review the case and 'Final Notice' with the Conservation District Board of Directors prior to mailing. The Board at that time should give the district manager the direction to send the letter. This action of the board should be recorded in their meeting minutes.

- E. If the required plan maintenance documentation is not submitted within the final 30-day period, the Board should take action to refer the case to the SCC for enforcement and direct the district manager to forward the information relating to the referral to the SCC. See Section VI of this chapter for this guidance which outlines the information required to be submitted by the conservation district on a referral case.
- F. For VAOs, Conservation districts should include a copy of the draft withdraw letter with each mailing.

**The following decision tree is provided as an example of the above strategy**

**Act 38 participants whose plans are about to, or have expired**



1 = Standardized compliance letter "3.A.CAO" or "3.A.VAO"

2 = Standardized compliance letter "3.B.CAO" or "3.B.VAO"

3 = Standardized compliance letter "3.C.CAO" or "3.C.VAO"

4 = See Section VI. Specific guidance related to the processing of Act 38 enforcement cases

**The following standard letters are provided for the above strategy:**

**Letter 3.A.CAO**  
(April 1, 20XX)

**Animal operator Name (husband and wife)**  
**Address**

**Re: Requirement to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name,**

Your current Nutrient Management Plan (plan) approved on **[Date<sup>1</sup>]** expires on *September 30, 20XX*. Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005) states that you are obligated to have an approved, updated or amended Nutrient Management Plan for every crop year.

Plan updates or amendments must be developed by a certified nutrient management planner, just like your current plan. Given the time required to work with a certified planner to develop this plan revision, I encourage you to contact your planner now to start the process so that you can have a NMP for the beginning of the next crop year. It is recommended that you submit a plan update or amendment to the conservation district office by July 1, 2017.

In closing, the conservation district is available to assist you in understanding and meeting this obligation, which essentially requires that you ensure that you always have a valid nutrient management plan. I have enclosed an updated list of certified planners for your information. If you have any questions relating to this obligation, please contact me at the conservation district office (**[Phone Number<sup>4</sup>]**) so that I can help you understand this requirement.

Sincerely,

*NM Staff Person*

Enclosure: List of certified planners for the county

cc: File

DEP (if a CAFO)

*Date<sup>1</sup> = date of approval of NMP*

*Phone Number<sup>4</sup> = Your office phone number*

*List of specialist is optional for annual plan updates*

**Letter 3.A.VAO**  
(April 1, 20XX)

**Animal Operator Name (husband and wife)**  
**Address**

**Re: Reminder to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

Your current Nutrient Management Plan (plan), which was approved on **[Date<sup>1</sup>]**, expires on *September 30, 20XX*. In order to maintain your volunteer status under Pennsylvania's Nutrient and Odor Management Law (Act 38 of 2005), to receive the liability protection afforded under that program and maintain your eligibility for various plan implementation funding sources, you must have an approved updated or amended Nutrient Management Plan for each crop year.

Plan updates or amendments must be developed by a certified nutrient management planner, just like your current plan. Given the time required to work with a certified planner to develop a plan revision, I encourage you to contact your planner now to start the process. It is recommended that you submit a plan update or amendment to the conservation district office by July 1, 2017

Thank you for your participation in this program that supports and enhances both farm productivity and environmental protection. Your involvement demonstrates your interest in ensuring that your operation is properly handling the manure generated on your operation.

If you choose to no longer participate as a volunteer under Pennsylvania's Nutrient and Odor Management Law please be aware of your obligations under Pennsylvania's Clean Streams Law and Chapter 91. These obligations require that if you generate and/or utilize manure you must develop and implement a written **Manure Management Plan (MMP)**.

The conservation district is available to assist you in understanding and meeting this revised plan submission timeframe, as well as informing you of any funding that may be available to support your plan development and implementation activities. I have enclosed an updated list of certified planners for your information. A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan may be requested if you no longer wish to participate under Act 38. If you have any questions relating to the revision of your plan, please contact me at the conservation district office (**[Phone Number<sup>4</sup>]**) so that I can assist you.

Sincerely,

*NM Staff Person*

Enclosure: List of certified planners for the county

cc: File

*Date*<sup>1</sup> = plan approval date

*Phone Number*<sup>4</sup> = Your office phone number

**Letter 3.B.CAO**  
(July 1, 20XX)

**Animal Operator Name (husband and wife)**  
**Address**

**Re: Requirement to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to my previous letter dated **[Date<sup>1</sup>]** reminding you that your Nutrient Management Plan (plan) will soon expire and instructing you to submit a plan update or amendment.

The **[District<sup>2</sup>]** still has not received a plan update or amendment.

To remain in compliance with Pennsylvania's Nutrient and Odor Management Act (Act 38 of 2005), **the State Conservation Commission's (SCC) compliance timeframe requires that you have an approved NMP for each crop year. (District<sup>2</sup>) recommends that you submit a plan update or amendment (60 days from date of receipt) by (Date X).**

Please be aware that you have a legal obligation under the Nutrient Management Act to maintain a current nutrient management plan for your operation at all times. The conservation district is available to assist you in understanding and meeting this obligation in order to avoid any possible enforcement consequences the SCC may impose if you do not comply.

If you have any questions relating to this obligation, please contact me at the conservation district office **([Phone Number<sup>5</sup>])** so that I can provide whatever additional information or direction you may need.

Sincerely,

*NM Staff Person*

cc: File  
SCC Regional Coordinator

**Date<sup>1</sup>** = Date of first letter

**District<sup>2</sup>** = Your conservation district name, such as Lebanon County Conservation District

**Phone Number<sup>5</sup>** = Your office phone number

**Letter 3.B.VAO**  
(July 1, 20XX)

**Animal Operator Name (husband and wife)**  
**Address**

**Re: Second Reminder to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to my previous letter dated **[Date<sup>1</sup>]** reminding you that your Nutrient Management Plan (plan) was soon to expire and informing you that you need to submit a plan update or amendment in order to maintain your Nutrient Management Act volunteer status.

The **[District<sup>2</sup>]** has not received a plan update or amendment.

The State Conservation Commission's (SCC) volunteer program policy directs you to have a NMP for each crop year. (District<sup>2</sup>) recommends that you submit a plan update or amendment by (60 days from date of receipt) (**Date X**).

Again, I would like to thank you for your participation in this program that supports and enhances both farm productivity and environmental protection. Your continued involvement demonstrates your interest in ensuring that your operation is properly handling the manure generated on site. I would encourage you to maintain your volunteer status under this worthwhile program. Participation provides you some additional protection under the law relating to public concerns regarding your manure and fertilizer use activities. It also ensures your compliance with state and federal manure management laws, allows the conservation district to actively support the nutrient management activities you are implementing on your animal operation, and provides you access to various funding programs offered by state and federal agencies and private organizations.

If you have decided not to continue your involvement in the Nutrient Management Act program, please fill out and return the attached Nutrient Management Act Program Withdrawal letter (**attach draft letter**). Again, I would hope to encourage you to maintain your status as a volunteer.

If you choose to no longer participate as a volunteer under Pennsylvania's Nutrient and Odor Management program, please be aware of your obligations under Pennsylvania's Clean Streams Law and Chapter 91. These obligations require that if you generate and/or utilize manure you must develop and implement a written **Manure Management Plan (MMP)**.

The conservation district is available to assist you in understanding and meeting this revised plan submission timeframe as well as informing you of any funding that may be available to support your plan development and implementation activities. I have enclosed an updated list of certified planners for your information. A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan may be requested if you no longer wish to participate under Act 38. If you have any questions relating to the revision of your plan or any other aspect of your volunteer status, please contact me at the conservation district office **([Phone Number<sup>5</sup>])** so that I can assist you.

Sincerely,

*NM Staff Person*

ENCLOSURE – Planner list

CC: File

Date<sup>1</sup> = Date of first letter

District<sup>2</sup> = Your conservation district name, such as Lebanon County Conservation District

Phone Number<sup>5</sup> = Your office phone number



**Letter 3.C.CAO (sent certified mail return receipt requested and regular mail)**  
September 1, 20XX

CERTIFIED MAIL: \_\_\_\_\_

**Animal Operator Name (husband and wife)**  
**Address**

**Re: FINAL NOTICE - Requirement to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is a follow up to staff's previous letters dated **[Dates<sup>1</sup>]** and serves as our final notice to inform you of your legal obligation to submit an update or amendment to your Nutrient Management Plan (NMP).

Your current plan expires September 30, 20XX and you need to act immediately to either update or amend your current nutrient management plan in order to remain in compliance with the law. The State Conservation Commission's (SCC) compliance timeframe requires that you have an approved NMP at all times. In order to be approved, NMPs must be acted on by the conservation district's Board of Directors (BOD). Please submit an update or amendment to your NMP by **[Date of last BOD meeting prior to September 30<sup>th</sup>]** which is the last BOD meeting date prior to September 30<sup>th</sup>. Additionally, you are reminded that it is unlawful to spread or export manure without a current approved NMP.

**This letter represents your last chance to cooperatively comply with this legal obligation prior to our office being compelled to refer your case to the SCC for enforcement action.** Please be aware that the SCC is very firm in ensuring that Concentrated Animal Operations (CAOs) always have a valid plan for their farming operation, so I highly encourage you to meet this plan update or amendment timeframe in order to avoid possible enforcement consequences that the SCC may impose.

If you have any questions relating to this obligation, please contact me or **[Name<sup>5</sup>]** at the conservation district office **[Phone Number<sup>3</sup>]** so that we can provide whatever additional information or direction you may need

Sincerely,

**[District<sup>4</sup>]**, District Manager

cc: **[Name]**, SCC Regional Coordinator  
File  
**[Name]**, DEP Regional Office (if a CAFO)

Dates<sup>1</sup> = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer to remind them of their obligation to have a current NMP

Phone Number<sup>3</sup> = Your office phone number

District<sup>4</sup> = Your district name, such as Lebanon County Conservation District

Name<sup>5</sup> = Name of CD staff person (typically the NMS) who will be performing the onsite visit, or who questions will be directed to.

**Letter 3.C.VAO (sent certified mail return receipt requested and regular mail)**  
**September 1, 20XX**

CERTIFIED MAIL: \_\_\_\_\_

**Animal Operator Name (husband and wife)**  
**Address**

**Re: FINAL NOTICE - Reminder to Update or Amend Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is a follow up to staff's previous letters dated **[Dates<sup>1</sup>]** and serves as the final reminder of your need to submit an update or amendment to your Nutrient Management Plan (NMP).

Your current plan expires September 30, 20XX. **This letter represents your last chance to submit the necessary NMP to our office or we will be compelled to cancel your volunteer status under the Nutrient Management Law. Please submit an update or amendment to your NMP by September 30, 20XX.** If you have not implemented the above corrective actions by the time indicated our office will be obligated to notify the SCC that you are forfeiting your voluntary status under the Act 38 program

I once again encourage you to maintain your volunteer status under this program, as participation provides you some additional protection under the law relating to public concerns regarding your manure and fertilizer use activities. It also ensures your compliance with state and federal manure management laws, allows the conservation district to actively support the nutrient management activities you are implementing on your animal operation, and provides you access to various funding programs offered by state and federal agencies and private organizations.

If you have decided not to continue your involvement in the Nutrient Management Act program, please fill out and return the attached Nutrient Management Act Program Withdrawal letter **(attach draft letter)**.

If you choose to no longer participate as a volunteer under Pennsylvania's Nutrient and Odor Management program, please be aware of your obligations under Pennsylvania's Clean Streams Law and Chapter 91. These obligations require that if you generate and/or utilize manure you must develop and implement a written **Manure Management Plan (MMP)**. Please be advised that it is unlawful to spread or export manure without a current approved NMP or a MMP.

If you have any questions relating to the revision of your plan or any other aspect of your volunteer status, please contact [Name<sup>4</sup>] at the conservation district office ([Phone Number<sup>3</sup>]) so that they can assist you. A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan may be requested if you no longer wish to participate under Act 38.

Sincerely,

*District Manager*

Enclosure: Draft withdrawal letter

cc: File

Dates<sup>1</sup> = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer to remind them of the expiration of their NMP

Phone Number<sup>3</sup> = Your office phone number either District Manager, or the NMS's (staff person's)

Name<sup>4</sup> = Name of CD staff person (typically the NMS) who will be performing the onsite visit, or who questions will be directed to.

**V. Scenario 4. Operations which fail to fully implement an approved NMP as determined during status review inspections or complaint investigations.**

For all Act 38 status review and complaint site visits, either the 'Status Review Report' form or the 'Nutrient Management Inspection Report' form should be completed to document the observations made during the visit. These forms should clearly indicate what has been observed or otherwise determined during the visit including any findings relating to animal operation

Within a week of performing a status review or complaint inspection, the conservation district should send a formal letter to the operator describing the district's observations from the visit. The letters should note significant items of compliance and identify all items which are deficient, if appropriate. District staff will need to schedule an accelerated inspection frequency for operations out of compliance, consistent with the compliance time frames listed in correspondence to the operator. These letters will be more regulatory in nature for CAOs than they would be for VAOs.

Where non-compliance issues are identified during the site visit, the district should follow the procedure described below:

- A. While the district staff is on-site, they should verbally inform the operator of the non-compliance issues observed. As a follow up to the visit, the conservation district shall send a first 'notification' letter (standard compliance 'Letter 4.A.CAO' or 'Letter 4.A.VAO') identifying:
  1. Non-compliance issues that were observed during the site visit,
  2. Corrective actions to regain compliance with Act 38 and their approved NMP,
  3. Time frames for completion of the compliance actions.

Districts are encouraged to contact their SCC Regional Nutrient Management Coordinator to assist in determining appropriate compliance time frames to include in this letter.

A copy of the 'Status Review Form' or 'Nutrient Management Inspection Report' should be enclosed with this letter. This letter should also inform the operator that a follow up inspection will be scheduled shortly after the corrective timeframes listed in the letter to verify the operator's compliance with currently deficient components of their approved NMP and the Act 38 program.

- B. The conservation district will schedule a follow up inspection of the operation consistent with the time frame established in the first notification letter. The conservation district will record relevant observations on the 'Nutrient Management Inspection Report' form. *Note: the 'Status Review Report' form should not be used for this inspection.*

A second 'notification' letter (standard compliance 'Letter 4.B.CAO' or 'Letter 4.B.VAO') documenting the findings of this follow up inspection shall be sent to the operator informing them of the findings of the follow up visit. All non-compliance issues that have been corrected should be noted in this letter. This letter should be sent, within two weeks of the follow up visit, by certified USPS mail (return receipt required) and regular USPS mail.

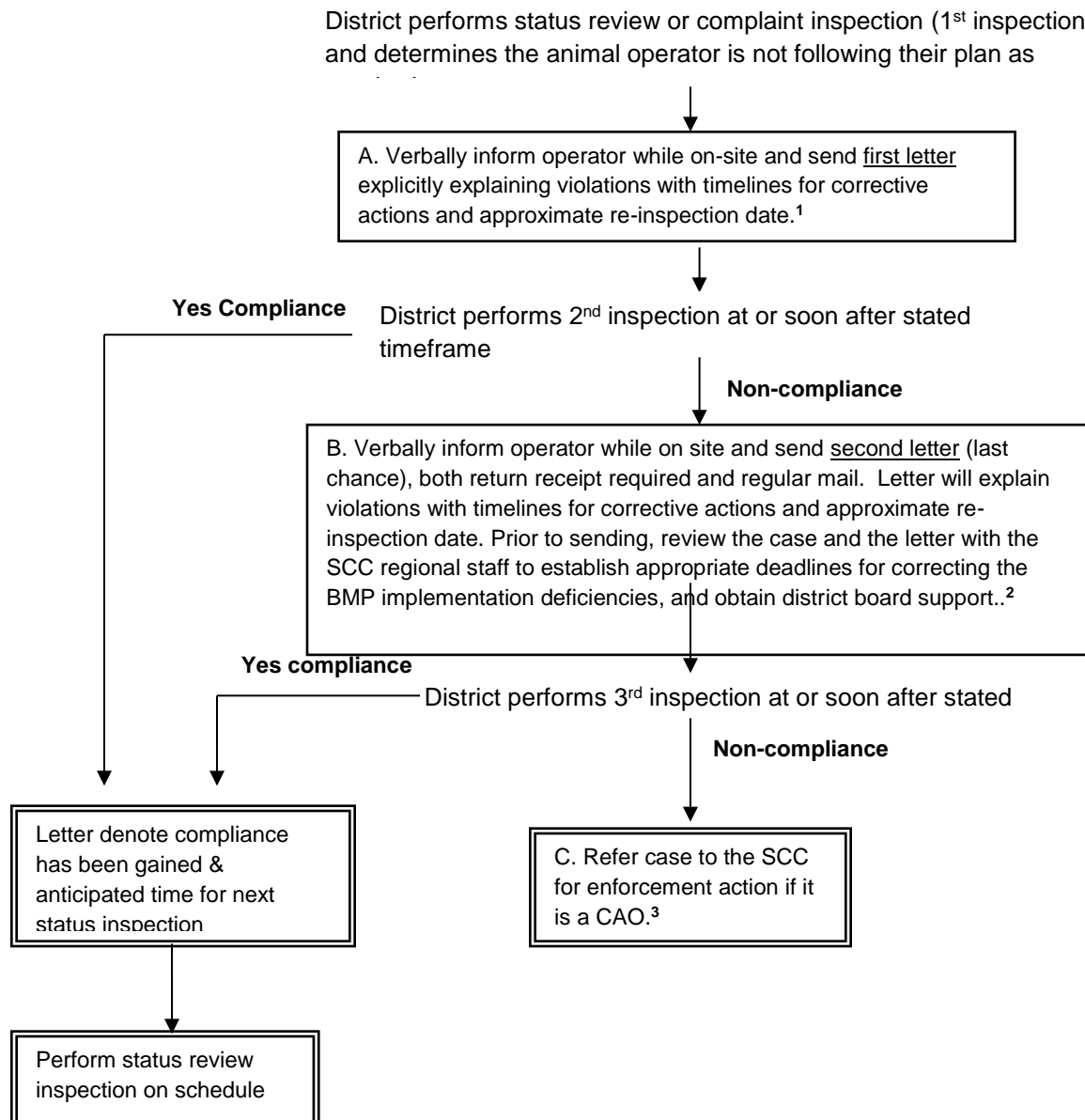
1. If non-compliance issues remain, they should be listed in the second 'notification' letter ("letters 4.B. CAO or 4.B. VAO), along with any corrective actions required for compliance and a stipulated date for completion. A conservation district should review the case with their SCC Regional Nutrient Management Coordinator to discuss relevant timeframes and for guidance concerning the district's referral options if, appropriate.
  2. If there are non-compliant issues to address in the second 'notification' letter, this letter is considered to be the "Final Notice" letter. The district staff shall review the case and the 'Final Notice' letter with the Conservation District Board of Directors prior to mailing. The Board should be apprised of this situation and given the opportunity to review the "draft" letter to ensure that they are supportive with the directives of the letter and with referring the case to the SCC if the farmer does not comply with the timeframe outlined in the letter. The board shall take formal action to refer the case to SCC if the operator fails to comply within the timeline. This action of the board should be recorded in the minutes of the meeting.
- C. If at any time the operator is not responsive to the district's request to schedule a site visit to their operation, the conservation district shall send a letter to the operator informing them of the conservation district's attempts to arrange a site visit with the operator. The letter should direct the operator to contact the conservation district office during normal business hours within 10 days (give a specific date in the letter) to arrange for a site inspection (letter 4.C). If the operator fails to contact the conservation district office within the allotted 10 days, the conservation district shall send a letter to the operator indicating the date they will be at the site to perform the inspection, directing the operator or his representative to be available for this inspection. This letter will provide the operator the opportunity to call the conservation district office if the date is not acceptable to their schedule and to arrange for an acceptable

date and time for the site visit (letters 4.D). This letter shall be sent by certified USPS mail (return receipt required) and regular USPS mail

- D. If the animal operation is determined to be meeting their Act 38 requirements during any of the inspections noted above, conservation districts shall complete and mail the operator the standard letter (Status Review Follow-up Report Letter) and attached the inspection report which documents the findings of the inspection.

**The following decision tree is provided as an example of the above strategy:**

**Operations which fail to fully implement an approved NMP (normally determined during status review inspections or complaint investigations)**



1 = Standardized compliance letter "4.A.CAO" or "4.A.VAO"

2 = Standardized compliance letter "4.B.CAO" or "4.B.VAO"

3 = See Section VI. Specific guidance related to the processing of Act 38 enforcement cases



**The following standard letters are provided for the above strategy:**

**Letter 4.A.CAO out of compliance**

**Date**

**Animal Operator Name (husband and wife)**

**Address**

**Re: Requirement to Implement Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to my **[Date<sup>1</sup>]** site visit where I assessed the status of your implementation of your Act 38 (commonly referred to as Pennsylvania's Nutrient and Odor Management Act) Nutrient Management Plan (NMP). Attached to this letter is a copy of the inspection report which outlines the various findings from my visit.

As is indicated on the inspection report, you were found to be out of compliance with your obligations under Act 38, relating to the following issues:

<b>Non-Compliance finding</b>	<b>Corrective action required</b>	<b>Timeframe to complete corrective action</b>
<b>[Finding<sup>2</sup>]</b>	<b>[Actions Required<sup>3</sup>]</b>	<b>[Date<sup>4</sup>]</b>

The State Conservation Commission's (SCC) program policies oblige you to implement the required corrective actions within the timeframe provided in the above schedule in order to regain compliance with the law. I am directed to revisit your operation in order to confirm that you have implemented the required corrective action(s) outlined above. I plan to visit your farm on **[Date and Time<sup>5</sup>]** in order to reassess your operation. Please make yourself available on that date so we can discuss the corrective actions you have taken to address this *(these)* non-compliant issue(s). If you cannot meet on this date and time, please call me at least 5 days prior to this date so that we can reschedule to a date that meets your schedule.

If you have any questions relating to this obligation, please contact me at the conservation district office so that I can provide whatever additional information or direction you may need.

Sincerely,

*NM Staff Person*

Enclosure: INSPECTION REPORT

cc: File

[Name], DEP Regional office (if a CAFO)

Date<sup>1</sup> = date of site visit

Finding<sup>2</sup> = Individually list the deficiencies you noted during your inspection

Actions Required<sup>3</sup> = List individually the correction actions required to come back into compliance

Date<sup>4</sup> = establish a date you can realistically expect the compliance measure to be completed, use your professional judgment on establishing this date. The SCC Regional Coordinator can also assist in establishing this compliance date. This date should not go past 6 months unless it is an unusual circumstance.

Date and Time<sup>5</sup> = Set a date and time which should be about 3-7 days following the farmer's required date to fix the non-compliant issues

**Letter 4.A.VAO out of compliance**

**Date**

**Animal Operator Name (husband and wife)**

**Address**

**Re: Reminder to Implement Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to my **[Date<sup>1</sup>]** site visit where I assessed the status of the implementation of your Act 38 (commonly referred to as Pennsylvania's Nutrient and Odor Management Act) Nutrient Management Plan (NMP). Attached to this letter is a copy of the on-site inspection report which outlines the various findings from my visit.

As is indicated on the attached report, you were found to be deficient in your implementation of the following practices called for in your approved plan:

<b>Implementation deficiency finding</b>	<b>Corrective action needed</b>	<b>Timeframe to complete corrective action</b>
<b>[Finding<sup>2</sup>]</b>	<b>[Actions Needed<sup>3</sup>]</b>	<b>[Date<sup>4</sup>]</b>

The State Conservation Commission's (SCC) volunteer program policies oblige you to implement the above listed corrective actions within the timeframe provided in the above schedule in order to maintain your volunteer status under the Act 38 program. I am directed to revisit your operation in order to confirm that you have implemented the above listed corrective action(s). I plan to visit your animal operation on **[Date and Time<sup>5</sup>]** in order to reassess your operation. Please make yourself available on that date so we can discuss the corrective actions you have taken to address this (*these*) plan implementation deficiency (ies). If you cannot meet on this date and time, please call me at least 5 days prior to this date so that we can reschedule to a date that meets your schedule.

I encourage you to take these necessary actions in order to maintain your Act 38 volunteer status as this program supports both farm productivity and environmental protection. Your involvement demonstrates your interest in ensuring that your operation is properly handling the manure generated on site. I would encourage you to maintain your volunteer status under this program as participation provides you some added protections under the law relating to public concerns that may be directed to your

manure and fertilizer use activities, ensures compliance with state and federal manure management laws, allows the conservation district to actively support the nutrient management activities you are implementing on your operation, and provides you access to various funding programs offered by state and federal agencies as well as private organizations.

If you have decided not to continue your involvement in the Nutrient Management Act program, please fill out and return the attached Nutrient Management Act Program Withdrawal letter (attach draft letter).

If you choose to no longer participate as a volunteer under Pennsylvania's Nutrient and Odor Management program, please be aware of your obligations under Pennsylvania's Clean Streams Law and Chapter 91. These obligations require that if you generate and/or utilize manure you must develop and implement a written **Manure Management Plan (MMP)**.

A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan may be requested if you no longer wish to participate under Act 38.

If you have any questions relating to this letter, please contact me at the conservation district office so that I can provide whatever additional information or direction you may need.

Sincerely,

*NM Staff Person*

Enclosure:            Inspection report  
                             Withdrawal letter

cc:     File

Date<sup>1</sup> = date of site visit

Finding<sup>2</sup> = Individually list the deficiencies you noted during your inspection

Actions Needed<sup>3</sup> = List individually the correction actions required to come back into compliance

Date<sup>4</sup> = establish a date you can realistically expect the compliance measure to be completed, use your professional judgment on establishing this date. The SCC

Regional Coordinator can also assist in establishing this compliance date. This date should not go past 6 months unless it is an unusual circumstance.

*Date and Time*<sup>5</sup> = *Set a date and time which should be about 3-7 days following the farmer's required date to fix the non-compliant issues*

**Letter 4.B.CAO (sent certified mail return receipt requested and regular mail)**  
**Date**

CERTIFIED MAIL: \_\_\_\_\_

**Animal Operator Name (husband and wife)**  
**Address**

**Re: FINAL NOTICE - Requirement to Implement Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to staff's **[Date<sup>1</sup>]** site visit where they reassessed the implementation status of your Act 38 (commonly referred to as Pennsylvania's Nutrient and Odor Management Act) Nutrient Management Plan. This was their second visit to verify that you implemented the required corrective action(s) as outlined in their earlier letter dated **[Date<sup>2</sup>]**. As of the date of this re-inspection, you have not met the plan implementation requirements outlined in the previous letter, as demonstrated on the attached inspection report for this visit.

As is indicated on the inspection report, you remain to be non-compliant on the following issue(s):

<b>Non-Compliance finding</b>	<b>Corrective action required</b>	<b>Timeframe to complete corrective action</b>
<b>[Finding<sup>3</sup>]</b>	<b>[Actions Required<sup>4</sup>]</b>	<b>[Date<sup>5</sup>]</b>

The State Conservation Commission's (SCC) program policies oblige you to implement the required corrective actions within the timeframe provided in the above schedule in order to regain compliance with the law. We are directed to revisit your operation in order to confirm that you have implemented the required corrective action(s) outlined above. **[NMS's Name<sup>7</sup>]** plans to visit your animal operation on **[Date and Time<sup>6</sup>]** in order to reassess your operation. All compliance issues noted above are required to be corrected at the time of the next visit. Please make yourself available on that date so staff can discuss the corrective action(s) you have taken to address this *(these)* non-compliant issue(s). If you cannot meet on this date and time, please call **[Name<sup>7</sup>]** at least 5 days prior to this date so that they we can reschedule to a date that meets your schedule.

This is your **final notice** directing you to comply with these regulatory requirements. If you have not completely implemented the required corrective action(s)

at the time of the next visit, our office will be obligated to refer this case to the SCC for enforcement action. Please be aware that the SCC is very firm in ensuring that animal operations fully implement their Nutrient Management Plans, so I highly encourage you to implement this (these) corrective action(s) within the timeframe provided in order to avoid possible enforcement actions such as fines, penalties and orders that the SCC may impose.

If you have any questions relating to this obligation, please contact me, or [Name] at the conservation district office so that we can provide whatever additional information or direction you may need.

Sincerely,

*CD District Manager*

Enclosure: Inspection report

cc: File  
[Name], SCC Regional Coordinator  
[Name], DEP Regional Office (if a CAFO)

Date<sup>1</sup> = Date of second site visit

Date<sup>2</sup> = Date of first letter (standard letter 4.A.)

Finding<sup>3</sup> = Individually list the deficiencies you noted during your inspection

Actions Required<sup>4</sup> = List individually the correction actions required to come back into compliance

Date<sup>5</sup> = establish a date you can realistically expect the compliance measure to be completed, use your professional judgment on establishing this date. The SCC Regional Coordinator can also assist in establishing this compliance date. This date should not go past 3 months unless it is an unusual circumstance.

Date and Time<sup>6</sup> = Set a date and time which should be about 3-7 days following the farmer's required date to fix the non-compliant issues

Name<sup>7</sup> = Name of CD staff person (typically the NMS) who will be performing the onsite visit

**Letter 4.B.VAO (sent certified mail return receipt requested and regular mail)**  
**Date**

CERTIFIED MAIL: \_\_\_\_\_

**Animal operator Name (husband and wife)**  
**Address**

**Re: FINAL NOTICE - Reminder to Implement Your Current Nutrient Management Plan**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is sent as a follow up to our staffs **[Date<sup>1</sup>]** site visit where they reassessed the implementation status of your Act 38 (commonly referred to as Pennsylvania's Nutrient and Odor Management Act) Nutrient Management Plan (plan). This was their follow up visit to verify that you implemented the corrective action(s) outlined in their earlier letter dated **[Date<sup>2</sup>]**. As of the date of this re-inspection, you have not implemented the corrective measures outlined in their previous letter, as demonstrated on the attached on-site report for this visit.

As is indicated on the attached report, you remain to be deficient in implementing the following practices called for in your approved plan:

Implementation deficiency finding	Corrective action needed	Timeframe to complete corrective action
<b>[Finding<sup>3</sup>]</b>	<b>[Actions Needed<sup>4</sup>]</b>	<b>[Date<sup>5</sup>]</b>

The State Conservation Commission's (SCC) volunteer program policies oblige you to implement the above listed corrective actions within the timeframe provided in the above schedule in order to maintain your volunteer status under the Act 38 program. We are directed to, once again, revisit your operation in order to confirm that you have implemented the above listed corrective action(s). We plan to visit your animal operation on **[Date and Time<sup>6</sup>]** in order to reassess your operation. Please make yourself available on that date so we can discuss the corrective actions you have taken to address this *(these)* plan implementation deficiency (ies). If you cannot meet on this date and time, please call us at least 5 days prior to this date so that we can reschedule to a date that meets your schedule.

This is your **final notice** encouraging you to fully implement your Nutrient Management Plan including the corrective actions outlined above. **If you have not**



**implemented the above corrective actions at the time of my next visit, our office will be obligated to notify the SCC that you are forfeiting your voluntary status under the Act 38 program.**

We once again encourage you to take these necessary actions in order to maintain your Act 38 volunteer status. Your involvement demonstrates your interest in ensuring that your operation is properly handling the manure generated on site. We would encourage you to maintain your volunteer status under this program as participation provides you some added protections under the law relating to public concerns that may be directed to your manure and fertilizer use activities, ensures compliance with state and federal manure management laws, allows the conservation district to actively support the nutrient management activities you are implementing on your operation, and provides you access to various funding programs offered by state and federal agencies as well as private organizations.

If you have decided not to continue your involvement in the Nutrient Management Act program, please fill out and return the attached Nutrient Management Act Program Withdrawal letter **(attach draft letter)**.

If you choose to no longer participate as a volunteer under Pennsylvania's Nutrient and Odor Management program, please be aware of your obligations under Pennsylvania's Clean Streams Law and Chapter 91. These obligations require that if you generate and/or utilize manure you must develop and implement a written **Manure Management Plan (MMP)**.

A copy of DEP's Manure Management Manual, outlining your requirements and providing a workbook to help you in developing your manure management plan may be requested if you no longer wish to participate under Act 38.

If you have any questions relating to this letter, please contact me at the conservation district office so that I can provide whatever additional information or direction you may need.

Sincerely,

*CD District Manager*

Enclosure: Inspection Report  
Withdrawal letter

cc: File

Date<sup>1</sup> = Date of second site visit

Date<sup>2</sup> = Date of first letter (standard letter 4.A.)

Finding<sup>3</sup> = *Individually list the deficiencies you noted during your inspection*

Actions Needed<sup>4</sup> = *List individually the correction actions required to come back into compliance*

Date<sup>5</sup> = establish a date you can realistically expect the compliance measure to be completed, use your professional judgment on establishing this date. The SCC Regional Coordinator can also assist in establishing this compliance date. This date should not go past 3 months unless it is an unusual circumstance.

Date and Time<sup>6</sup> = *Set a date and time which should be about 3-7 days following the farmer's required date to fix the non-compliant issues*

## Letter 4.C

Date

Animal Operator Name (husband and wife (if known))

Address

**Re: Site Visit for Follow Up Compliance Inspection**

Dear Mr. and Mrs. Animal operator Name,

This letter is a follow up to my previous phone calls on [Dates<sup>1</sup>] to schedule a site visit to perform an Act 38 Compliance Inspection. I am sending this letter to you for the purpose of establishing a time when I can meet with you to complete the compliance inspection

Please contact me at the conservation district office at [Phone Number<sup>3</sup>] by [Date<sup>2</sup>] to schedule the compliance inspection

If you have any questions regarding this meeting, please feel free to contact me at the conservation district office at [Phone Number<sup>3</sup>].

Sincerely,

*NM Staff Person*

CC: [Name], SCC Regional Coordinator  
File

Date<sup>1</sup> = Dates of missed calls

Date<sup>2</sup> = 10 days from expected receipt of letter

Phone Number<sup>3</sup> = Your office phone number

**Letter 4.D (sent certified mail return receipt requested and regular mail)**

**Date**

CERTIFIED MAIL: \_\_\_\_\_

**Animal Operator Name (husband and wife (if known))**

**Address**

**Re: Site Visit for Follow Up Compliance Inspection**

Dear Mr. and Mrs. **Animal Operator Name**,

This letter is a follow up to my previous phone calls on **[Dates<sup>1</sup>]** and letter **[Dates<sup>1</sup>]** to schedule a site visit to perform an Act 38 Compliance Inspection. I am sending this letter to you for the purpose of establishing a time when I can meet with you to complete the compliance inspection

I will be out at your animal operation on **[Day, Date and Time<sup>2</sup>]** to perform the compliance inspection. You (or your representative) need to be present at this site visit. **If you or your appointed representative cannot be present at this meeting, please contact me by [Date<sup>3</sup>] so that we may reschedule at a time that meets your availability.**

If you have any questions regarding this meeting, please feel free to contact me at the conservation district office at **[Phone Number<sup>4</sup>]**. I look forward to meeting with you on **[Date<sup>2</sup>]**.

Sincerely,

*NM Staff Person*

CC: [Name], SCC Regional Coordinator  
File  
[Name], DEP Regional Office (if a CAFO)

Date<sup>1</sup> = Dates of missed calls and letter 4.C

Day, Date and Time<sup>2</sup> = The day of the week, date and time that you decide to meet with the farmer out at his/her site recognizing that you are not sure of the farmer's availability. This should be a date approximately 2 weeks off so to provide time for the farmer to clear their schedule or reschedule the meeting.

Date<sup>2</sup> = Date you selected to meet on the farm

Date<sup>3</sup> = select a date that is approximately 7 days from anticipated receipt of letter.

Phone Number<sup>4</sup> = Your office phone number

## **VI. Specific guidance relating to the processing of Act 38 enforcement cases**

### General direction relating to dealing with non-compliance animal operations:

1. Only CAOs (and VAOs that received Nutrient Management Plan Implementation Grant Program funding to install BMPs) are relevant for enforcement action under Act 38 of 2005. VAOs (other than those that received Act 38 BMP implementation grant funds or are CAFOs) are not enforceable under Act 38.
2. District staff should determine if the animal operator is in violation of Act 38 of 2005 and is relevant for enforcement action (as described in “1” above) prior to written referral to the SCC for action.
3. District staff should document all communications with animal operator involved in the program. A notes sheet needs to be kept with the plan file to be used to document all contacts with or about the operator (including phone calls, farm visits, complaints, status reviews, etc.).
4. District staff are directed to inform SCC regional staff of cases where the district is struggling to gain compliance.
5. District staff should inform their respective supervisors, district managers and district boards of cases where the district is struggling to gain compliance with operators.
6. District staff shall provide a final certified (return receipt requested or delivery receipt), letter to violators clearly stating to them that this is their “**last chance**” to gain cooperative compliance, as described in the SCC compliance guidance documents. All compliance letters to farmers need to include definitive dates and actions required by the operator to gain, or regain compliance.
7. Prior to sending the “last chance” letter, district staff shall present the case to the district board for action to refer the case to the SCC, if the operator does not act within the timeframe of the “last chance” letter. The district needs to take formal action (recorded in the meeting minutes) at a board meeting to support referring the case to the SCC for enforcement action as outlined in the SCC compliance guidance documents. When the case is sent to the SCC because the operator did not respond within the “last chance” timeframe, the district will send a letter (listing the names of all operators being referred for enforcement with that letter), signed by either the District Chairman or the District Manager, to the SCC Executive Secretary requesting that the Commission initiate enforcement action. The letter needs to reference the meeting at which the board acted to request SCC enforcement.

### Materials to be submitted when referring an enforcement case to the SCC

8. Along with the letter from the District Chairman (or District Manager) to refer the case to SCC, the district shall submit:

- all correspondence sent to the non-compliant operator relating to the violation including, at a minimum:
  - o a copy of the plan approval and reauthorization (tri-annual reviews) letters, status review follow-up letters if they relate to the violation, and all the standard letters called for in the SCC's compliance guidance documents
- all correspondence received from the non-compliant operator to the district regarding the violation
- all site investigation forms (complaint or status review reports) regarding the violation and inspections performed on the operation.
- documentation of the most current animal density calculation for the operation (this is likely found in the most current version of the nutrient management plan).
- a list and brief recounting of any verbal communications with the animal operator, including phone calls and personal visits (this should be available on the note sheet kept with the plan file)
- a list and brief recounting of any action taken by the operator demonstrating their compliance efforts, or, any action taken by the operator demonstrating his unwillingness to comply
- a list and brief description of any pertinent communications between district staff and other interested or involved parties including other agriculture agencies.
- all necessary support documents (i.e. NMP, PDIP or other funding applications, photographs where relevant, previous violations, etc.) to help the SCC better understand the violation
- if available, all documentation relating to enforcement actions, taken or pending, by other agencies (DEP, PF&BC, etc.) including names of contact people from the other agencies.
- a chronology of all related events leading to the request for SCC enforcement action (this should be completed by district staff, but SCC staff may be asked to help develop this document if needed.)

(District office retains original documents of all of the above, unless copies cannot be achieved)

#### Issues relevant to the District once they refer an enforcement case to the SCC

9. The district is to refer all communications relating to an operation under active enforcement by the SCC, to the SCC for their handling. These include contacts from the violating animal operator or their lawyer or consultant and media.

10. It should be noted that in most cases, the violators file at the district office is not open for public review until the enforcement case is considered closed. Please contact

the SCC Regional Nutrient Management Program Coordinator for guidance, as the Right to Know Law interpretation changes from time to time.

11. In most cases, the appropriate SCC regional staff person will arrange to meet with the violator ASAP at the facility to assess the situation. District staff may be invited to accompany SCC staff on this site visit, but it is not mandatory that district staff attend. A site inspection report shall be completed documenting this visit. One copy of this report shall be provided to the animal operator and a second copy shall be provided to the district office to be retained in the operator's file. The original will be retained for the SCC case files.

12. Upon determination of a course of action, SCC staff shall work with legal staff to develop the necessary enforcement documents to carry out the SCC's action. All SCC correspondence with the operator shall be done via certified mail (return receipt or delivery receipt requested). The district will be copied on these documents.

13. The district needs to keep the SCC regional staff person informed of any developments relating to the violators actions to address the violation (such as NMP submission, NMP approval, submission of required records, BMP completion, etc.).

14. Once the case is closed (penalties collected and all corrective actions completed) the animal operator will be sent a letter from the SCC acknowledging the operators completion of the tasks. This letter will be copied to the district.

# **DEP CHAPTER 91**

## **COUNTY CONSERVATION DISTRICT MANURE MANAGEMENT STATUS REVIEW AND AGRICULTURAL COMPLAINT RESPONSE POLICY – GENERAL GUIDELINES PACKET**



## **Attachment 1**

### **Chapter 91 Compliance Strategy**

Conservation districts have responsibility to determine compliance with §91.36(b) in accordance with the Nutrient and Manure Management Delegation Agreement. The MMP on-site status review is the mechanism by which that compliance determination is made. The following strategy describes the compliance procedures or “steps” that should be followed when non-compliance is noted during a MMP status review. Within these procedures, PA Department of Environmental Protections (DEP) recognizes that conservation districts may offer the technical, financial, and/or compliance assistance necessary for producers to achieve voluntary compliance before referring an operation to DEP for regulatory enforcement. DEP is responsible for the enforcement of §91.36(b). Therefore, the procedures for referring an operation to DEP for enforcement after continued non-compliance originally noted during a MMP status review are also described in this compliance strategy.

MMP status reviews may be completed in response to a complaint. The Conservation District Board of Directors should approve an Agricultural Complaint Investigation and Follow-up Procedure. The Conservation District should provide a complete copy of the Conservation District’s agricultural complaint response policy and procedures to the landowner and/or operator.

Additionally, these procedures recognize that conservation districts are performing agriculture inspections as part of the Chesapeake Bay Agriculture Inspection Program (CBAIP), a required output measure of the Chesapeake Bay Technician contract. Conservation districts participating in the CBAIP should continue to follow the CBAIP standard operating procedure (CBO-INSP-001) for all inspection, follow-up, and compliance activities.

When scheduling a MMP Status review, the District will utilize common business courtesy and try to arrange a meeting date and time with the landowner and/or operator prior to the initial complaint response visit and for any follow-up visits. While a scheduled date and time is preferred, if there is an immediate threat to human health or the environment, a scheduled investigation may not be possible. In these cases, a phone call to the landowner and/or operator that a site visit will occur is a good idea.

The District may assess the availability of government technical and financial assistance which may be provided by the Conservation District or other agency staff.

The District may retain the right to request reimbursement and/or assess a fee for costs incurred by the Conservation District. If appropriate, coordinate with other State and Federal Agencies.

**The districts procedures should include time frames for corrective actions. These time frames may be flexible and may be adjusted due to practicality and economics, season dependent activities, or extreme weather conditions (i.e. Acts of God).**

#### **Documented pollution events:**

If the conservation district documented or actively witnessed a pollution event during the status review, the District should:

- Recommend immediate solutions to stop the continued release of pollutants to the affected water body.
- Suggest temporary and/or permanent corrective actions to clean up the area relevant to the pollution event.
- Complete the Manure Management Program On-Site Status Review Form (Attachment 9).
- If the status review is completed as a result of a complaint, , the Complaint Handling and Problem Assessment Form, and PA Agricultural Investigation Form should also be completed.
- Provide a copy of the written status review report and PA Agriculture Investigation Form (if applicable) to the landowner and/or operator. Follow-up with a letter summarizing the findings from the visit and what obligations the landowner and/or operator may have to regain compliance. The District should take photographs where relevant to support their findings.
- Report to the DEP Regional Office, as soon as possible, but no later than required by the delegation agreement. This report should include all documented or actively witnessed pollution events for erosion and sedimentation, manure, or nutrient related discharges.
- Inform the responsible party of their obligation to immediately report the pollution event (25 Pa. Chapter 91.33) to the respective DEP regional office by telephone and, if reasonably possible to do so, notify known downstream users of the waters.
- Coordinate with DEP to identify any follow up actions applicable to the District and to determine if DEP needs additional information to support their efforts to take enforcement action relating to the pollution event.
- If delegated the authority from DEP for 25 Pa. Code Chapter 102, follow appropriate enforcement procedures.
- If evidence of a fish kill, report to the Pennsylvania Fish and Boat Commission (F&BC) according to the procedures for both Chapter 102 and Act 38.
- **If an operation is referred to the Department because of a documented or actively witnessed pollution event, the Conservation District should not follow the 3 steps approach described below.**

## **Operation is out of regulatory compliance, no documented pollution events:**

### **Step 1**

- Document the findings of the initial visit with the Manure Management Program On-Site Status Review Form (Attachment 9), including photographs, if applicable.
- If the status review is completed in response to a complaint, the Complaint Handling and Problem Assessment Form, and PA Agricultural Investigation Form should also be completed.
- Provide a copy of the completed Manure Management Program Status Review Form and PA Agriculture Investigation Form (if applicable) to the landowner and/or operator.
- Identify the regulatory deficiencies and communicate these to the landowner and/or operator.
- Identify the temporary and/or permanent corrective actions and communicate those to the landowner and/or operator.
- Specify the time frames to complete the temporary and/or permanent corrective actions and communicate these to the landowner and/or operator.
- Communicate to the landowner and/or operator a date certain for taking corrective actions. This date should be approximately 90 days.
- Communicate to the landowner and/or operator that the district will reassess the operation soon after the 90-day corrective action timeframe to determine if compliance has been achieved, or if constructed BMPs are required, appropriate steps have been taken towards implementation of the BMPs.
- Communication with the landowner and/or operator should be in writing and address the results of the status review and expectations of follow-up to the landowner and/or operator.
- Conservation District staff should review this case with their DEP Regional Office to get their guidance on the situation, as the DEP Regional Office will be the office to take on the enforcement case if necessary.

### **Step 2**

If corrective actions are not satisfied or, if constructed BMPs are required, appropriate steps have not been taken towards implementation of the BMPs within the time frame provided in Step 1, the landowner and/or operator has an additional 45 days to come into address the corrective actions.

- The conservation district should complete a follow-up site visit.
- Document the findings of the visit with the PA Agricultural Investigation Form (Attachment 3), including photographs, if applicable.
- Provide a copy of the completed PA Agricultural Investigation Form to the landowner and/or operator.
- Identify the regulatory deficiencies and communicate these to the landowner and/or operator.

- Identify the temporary and/or permanent corrective actions and communicate those to the landowner and/or operator.
- Specify the time frames to complete the temporary and/or permanent corrective actions and communicate these to the landowner and/or operator.
- Communicate to the landowner and/or operator a date certain for taking corrective actions. This date should be approximately 45 days.
- Communicate to the landowner and/or operator that the district will reassess the operation soon after the 45-day corrective action timeframe to determine if compliance has been regained.
- Communication with the landowner and/or operator should be in writing and address the results of the follow-up site visit and expectations of follow-up.
- Conservation District staff should review this case with their DEP Regional Office to get their guidance on the situation, as the DEP Regional Office will be the office to take on the enforcement case if necessary.

### STEP 3

If corrective actions are not satisfied or, if constructed BMPs are required, appropriate steps have not been taken towards implementation of the BMPs within the time frame provided in the second step, give the landowner and/or operator a final 15 days to address the corrective actions.

- The conservation district should complete a follow-up site visit.
- Document the findings of the visit with the PA Agricultural Investigation Form (Attachment 3), including photographs, if applicable.
- Provide a copy of the completed PA Agricultural Investigation Form to the landowner and/or operator.
- The Conservation District office will communicate with the landowner and/or operator expressing the urgency to address this issue.
- Send a **Last Chance letter** via US Postal Service certified mail, return receipt required, and as regular mail. This letter will list the continued regulatory deficiencies, the necessary temporary and/or permanent corrective actions to bring the operation into compliance, and the required date to implement those temporary and/or permanent corrective actions. Advise in the letter this is the landowner and/or operators last chance letter prior to directing the case to the Pennsylvania Department of Environmental Protection (DEP) for possible enforcement. Provide a required implementation date in this last chance letter. This last chance required action date should be approximately 15 days.
- The letter should reference any past communications that occurred (i.e. - “as we discussed on Month / Day / Year”).
- Prior to sending the 3rd Step letter, the Conservation District staff will review this case with their Conservation District manager and their Board of Directors (BOD), and ask their BOD for a motion to refer the case to DEP if compliance is not gained.
- Prior to sending the 3rd Step letter, the Conservation District staff will review

this case with their DEP Regional Office to get their guidance on the situation, as the DEP Regional Office will be the office to take on the enforcement case if necessary.

- **If the corrective action is not satisfied by the date given in the 3<sup>rd</sup> step letter, the Conservation District will forward the information relating to this situation to the DEP Regional Office for enforcement action.**

#### **Additional Guidance for DEP Referral:**

The implementation of this Chapter 91 Compliance Strategy is dependent on the Conservation District and agency partners having adequate technical resources available to monitor and direct responsible parties of their compliance requirements.

#### Materials to be submitted when referring a case to DEP may include the following:

- a. Letter from the District Chairman or District Manager referring the case for DEP action.
- b. All written correspondence sent to the landowner and/or operator relating to the violation.
- c. All written correspondence received from the landowner and/or operator to the Conservation District regarding the violation.
- d. All Manure Management Program Status Review Forms and PA Agricultural Investigation Forms regarding the violation.
- e. A summary of verbal communications with the landowner and/or operator, including phone calls and personal visits.
- f. A list and brief recounting of any action taken by the landowner and/or operator demonstrating any compliance efforts, or, any action taken by the landowner and/or operator demonstrating an unwillingness to comply
- g. A list and brief description of any pertinent communications between the Conservation District staff and other interested or involved parties including other agriculture agencies, legislators, media interest, Pennsylvania Department of Agriculture (PDA), and Pennsylvania Fish and Boat Commission (F&BC).
- h. Support documents (i.e. photographs, previous violations, etc.) to help DEP better understand the violation.
- i. If available, documentation relating to enforcement actions, taken or pending, by other agencies (SCC, F&BC, PDA, etc.) including names of contact people from the other agencies.
- j. A chronology of all related events leading to the request for DEP action.

Conservation District office retains original documents of all of the above, unless copies cannot be made.

The Conservation District will refer to DEP all communications relating to an agricultural operation under active enforcement by DEP. These include contacts from the landowner and/or operator or his/her lawyer.

It should be noted that most of the landowners and/or operators file at the Conservation District is open for public review. Manure Management Program Status Review Forms, PA Agricultural Investigation Forms, and other written correspondence between the landowner and/or operator and the Conservation District remain available to the public even while the case is pending. **Please Contact the DEP Regional Office for specific guidance.**

Once the DEP regional office has received an enforcement referral from the Conservation District, the appropriate DEP regional staff person will assess the situation for determining an appropriate enforcement action.

If an action taken by DEP results in litigation, Conservation District staff who conducted the investigation may be required to participate in the litigation process including depositions, affidavits, and testimony in court.

The Conservation District will keep the DEP regional staff person informed of any developments relating to the landowners and/or operator's actions to address the violation.

## **Attachment 2**

# **Complaint Handling and Problem Assessment Form**

This attachment provides a model form, similar to the one used by the Nutrient Management Program, to document the incoming complaint and then to record the relevant information found during the initial site investigation/assessment.

This form serves several purposes. The upper portion of the form is the “in-take” form, useful for recording the initial complaint. The lower portions of the form provides for the documentation of follow up activities, including detailed site location, description of the site and follow up actions. This form, or something similar, can be used by all districts to document and then track complaint response. This form, or something similar, will also allow DEP follow up to be more effective.

## **Complaint Handling and Problem Assessment Form**

**INTERNAL DISTRICT DOCUMENT (NOT TO BE SHARED)**

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ TAKEN BY: \_\_\_\_\_

CALLER: \_\_\_\_\_ REPRESENTS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: (H) \_\_\_\_\_ (W) \_\_\_\_\_ (OTHER) \_\_\_\_\_

COMPLAINT  
INFORMATION: \_\_\_\_\_  
\_\_\_\_\_

LANDOWNER / OPERATOR: \_\_\_\_\_

ADDRESS / LOCATION / DIRECTIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUAD SHEET / REFERENCE MAP: \_\_\_\_\_ RECEIVING STREAM / WATERBODY: \_\_\_\_\_

COUNTY: \_\_\_\_\_ MUNICIPALITY: \_\_\_\_\_

TYPE OF PROBLEM: \_\_\_\_\_

POLLUTION: YES \_\_\_\_\_ NO \_\_\_\_\_ DATE: \_\_\_\_\_

DISTRICT / DEP ASSESSMENT: \_\_\_\_\_ DATE: \_\_\_\_\_

INVESTIGATION FORM: YES \_\_\_\_\_ NO \_\_\_\_\_ DATE: \_\_\_\_\_

PHOTOS TAKEN: YES \_\_\_\_\_ NO \_\_\_\_\_

FINDINGS / COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COORDINATION / REFERRAL TO COOPERATING AGENCY(S): YES \_\_\_\_\_ NO \_\_\_\_\_

AGENCY: \_\_\_\_\_ DATE: \_\_\_\_\_

PHONE: \_\_\_\_\_ LETTER: \_\_\_\_\_ OTHER: \_\_\_\_\_

INDIVIDUAL CONTACTED: \_\_\_\_\_ PHONE #: \_\_\_\_\_

RESPONSE TO COMPLAINANT: MEETING: \_\_\_\_\_ PHONE: \_\_\_\_\_ LETTER: \_\_\_\_\_

DATE: \_\_\_\_\_

STATUS: \_\_\_\_\_  
\_\_\_\_\_



### **Attachment 3**

# **PA AGRICULTURAL INVESTIGATION FORM**

This attachment provides a model form, similar to other DEP inspection forms, which can be used to document the site investigation that results from the complaint. Information on this form includes a wide variety of potential activities or problems that may be involved when investigating a farm. It is not necessary to use this specific form, as other DEP and district inspection forms are available, but this provides a model for districts to use or to tailor to fit their needs. However, DEP does expect that conservation districts will have an investigation form available to implement their Complaint Response Policy. This form, or something similar, will also make DEP follow up more effective.

## AGRICULTURAL INSPECTION REPORT

Operation Name: \_\_\_\_\_ Inspection Date \_\_\_\_\_  
 Weather Conditions: \_\_\_\_\_ Time of Inspection: \_\_\_\_\_  
 Location: \_\_\_\_\_  
 Municipality: \_\_\_\_\_ County: \_\_\_\_\_  
 Receiving Water(s): \_\_\_\_\_ Designated/Existing Use: \_\_\_\_\_

Landowner \_\_\_\_\_ Operator \_\_\_\_\_  
 (name & address) \_\_\_\_\_ (name & address) \_\_\_\_\_  
 Phone \_\_\_\_\_

Operation Representative \_\_\_\_\_ Conservation District Representative \_\_\_\_\_  
 (name) \_\_\_\_\_ (name) \_\_\_\_\_

Type of Inspection (check only one) Photographs Taken Yes ☐ No ☐  
 Original Complaint ☐ Follow-up ☐  
 Site Description & Observations:

Continued ☐

Permit and Plan Requirements		Type of Agriculture (check as many as appropriate)	
Y	N	<input type="checkbox"/> Dairy <input type="checkbox"/> Poultry <input type="checkbox"/> Swine <input type="checkbox"/> Equine <input type="checkbox"/> Produce <input type="checkbox"/> Horticulture <input type="checkbox"/> Other	<input type="checkbox"/> Crop <input type="checkbox"/> Hay <input type="checkbox"/> Mushroom <input type="checkbox"/> Beef <input type="checkbox"/> Organic
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Written Erosion & Sediment Control Plan Circle one (requested / required)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Nutrient Management Plan (required)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Conservation Plan / Ag E&S Plan (required)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Manure Management Plan (required)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> NPDES Permit required <input type="checkbox"/> Phased Constr. <input type="checkbox"/> Non-Phased Constr.	
Permit #: _____ Exp. Date: _____			

## AGRICULTURAL INSPECTION REPORT

Operation Name: \_\_\_\_\_ Inspection Date \_\_\_\_\_

Report No. \_\_\_\_\_

### Inspection Findings (check as many as appropriate)

### Reference

- |  |                                    |
|--|------------------------------------|
| a. No violations observed at this time:  | <input type="checkbox"/> (N/A)     |
| b. Failure to have a current NMP, if required:                                       | <input type="checkbox"/> (83.281)  |
| c. Failure to develop/implement a written Manure Management Plan:                    | <input type="checkbox"/> (91.38)   |
| d. Failure to have a CAFO permit, if required:                                       | <input type="checkbox"/> (92.5)    |
| e. Failure to develop a written Agriculture Erosion and Sediment Control (E&S) Plan: | <input type="checkbox"/> (102.4)   |
| f. Failure to have a current Agriculture E&S Control Plan onsite:                    | <input type="checkbox"/> (102.4)   |
| g. Failure to maintain effective Agriculture E&S BMPs:                               | <input type="checkbox"/> (102.4)   |
| h. Failure to implement effective Agriculture E&S BMPs:                              | <input type="checkbox"/> (102.4)   |
| i. Sediment or other pollutant was discharge into waters of the Commonwealth:        | <input type="checkbox"/> (401 CSL) |
| j. Site conditions present a potential for pollution to waters of the Commonwealth:  | <input type="checkbox"/> (402 CSL) |
| k. Other (describe): _____   | _____                              |
- ☐ Inspection of this project has revealed site conditions which constitute violations of 25 Pa. Code Chapters 91, 92 and/or 102 and the Clean Streams Law, the act of June 22, 1937, P.L. 1987, 35 P.S. §691.1 et seq.

*Additional information regarding these violations can be found on the back of this page.*

### Compliance Assistance Measures

Continued ☐

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Follow-up Inspection will occur on or about (date)

\_\_\_\_\_  
(Signature of Responsible Party)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Inspector's Signature)

\_\_\_\_\_  
(Date)

The Responsible Party's signature acknowledges that they have read the report and received a copy and that they were given an opportunity to discuss it with the inspector. The signature does not necessarily mean the signee agrees with the report.

Page 2 of 3

This report is official notification that a representative of the [redacted] County Conservation District has conducted an inspection of your earth disturbance activity to determine compliance with Title 25, Chapter 92, National Pollutant Discharge Elimination System, Title 25, Chapter 102, Erosion and Sediment Control, Title 25, Chapter 83, Subchapter D, Nutrient Management, Title 25, Chapter 91, General Provisions and the Pennsylvania Clean Streams Law. [redacted] County Conservation District, which by delegation agreement with the Department of Environmental Protection, is authorized to investigate complaints, inspect earth disturbance activities and conduct compliance actions. Any violations observed by the Conservation District have been noted on this report form and constitute unlawful conduct as defined in Section 611 of the Clean Streams Law.

There will be no written confirmation of those violations from the CCD or DEP. Failure to take corrective actions to resolve the violations may result in administrative, civil and/or criminal penalties being instituted by the Department of Environmental Protection as defined in Section 602 of the Clean Streams Law of Pennsylvania. The Clean Streams Law provides for up to \$10,000 per day in civil penalties, up to \$10,000 in summary criminal penalties, and up to \$25,000 in misdemeanor criminal penalties for each violation.

This report does not constitute an Order or appealable action of the CCD or DEP. Nothing contained herein shall be deemed to grant or imply immunity from legal action for any violation noted herein.

For further information or assistance please contact:

[redacted] Conservation District

(Address)

Phone-

Fax -

Website -

CC: DEP

Township

## **Attachment 4**

# **Bio-Security**

This attachment recognizes the significant concerns conservation districts and the agricultural community have regarding bio-security at livestock operations. This attachment provides some basic steps all districts should incorporate into their activities when visiting or inspecting farm operations. These basic steps are not provided to replace an existing district procedure, but can be used to establish a procedure if a district does not have one. DEP does expect that conservation districts will have necessary bio-security procedures to implement the Complaint Response Policy and other on-farm activities.

All District staff will follow appropriate biosecurity procedures for all farm visits. Please review the District's Policy on Bio-Security.

If the district does not have a Bio-Security policy, DEP recommends the following biosecurity measures be followed at each farm or animal facility visit:

1. Check to see if the agricultural operation has a biosecurity policy in place. If so follow that policy.
2. Avoid entering a property without permission from the owner and an understanding of his or her biosecurity policies. Inquire about the presence of disease on the premises, and increase your biosecurity measures, if necessary, by wearing disposable coveralls and other protective covering onto the premises.
3. Upon arrival at a farm or other animal facility, park your vehicle in a clean area as far from livestock and high-traffic areas as possible.
4. Upon arrival, put on a new pair of disposable boots or clean waterproof boots before leaving the vehicle.
5. On the premises, avoid driving your vehicle or walking through feed areas to avoid contaminating the feed.
6. Once on a farm, avoid young stock if possible, or visit them first, before the older animals.
7. Before leaving a farm, clean and disinfect all equipment and sample containers.
8. When leaving, remove disposable boots immediately before entering your vehicle. All disposable items should be bagged and disposed of each day. If wearing waterproof boots, clean and disinfect them, then remove them as you enter the vehicle. Clean and disinfect the boots again upon arrival at the next farm.
9. After removing outerwear, disinfect your hands before leaving.
10. If disease is known to be present on a farm, do not visit any other farms that day, or visit the affected farm last.

Be aware that on November 23, 2010, a new law was passed in Pennsylvania making agricultural biosecurity area trespass a new type of criminal trespass. This new law is Attachment 5. Under the law:

- Conservation District staff could be charged with committing this offense if they knowingly or recklessly enter a posted biosecurity area without performing the reasonable biosecurity measures for entry that have been identified on the posting by the owner or authorized person.
- A violation of this law constitutes a summary offense. However, if damage or death of an animal or plant results from the trespass, the violation constitutes a misdemeanor of the first degree.

- If you come upon an agricultural operation with a posted biosecurity area and have a question if the posted measures are reasonable or for some reason you cannot follow them, you should simply not enter the area and make arrangements to meet with the operator at another location.

## Attachment 5

# Bio- Security Area Trespass Law

A copy of the 2010 Bio-Security Trespass Law was included based on comments received during the public comment period.

## Bio- Security Area Trespass Law

AN ACT

Amending Titles 3 (Agriculture) and 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for the definitions of "agricultural biosecurity area" and for "posted notice"; and further providing for keeping and handling of domestic animals, for ecoterrorism and for criminal trespass.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2303 of Title 3 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:

§ 2303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agricultural biosecurity area." Any of the following areas which has been identified by posted notice as AN AGRICULTURAL biosecurity area and for which the owner or other authorized person has established procedures to inhibit the transference of transmissible disease OR HAZARDOUS SUBSTANCE:

(1) Agricultural or other open lands as defined under 18 Pa.C.S. § 3503(b.2) (3) (relating to criminal trespass).

(2) A building or animal or plant containment area fenced or enclosed in a manner manifestly designed AND CONSTRUCTED to exclude trespassers or to confine domestic animals or plants used in research or agricultural activity or farming as defined in 18 Pa.C.S. § 3309 (relating

to agricultural vandalism).

"Posted notice." Notice posted in a manner which is reasonably likely to come to the attention of a person.

Section 2. Section 2305 of Title 3 is amended to read:

§ 2305. Keeping and handling of domestic animals.

The department shall have authority to regulate the keeping and handling of domestic animals to exclude or contain dangerous transmissible diseases and hazardous substances and to protect the environment, including the authority to require the establishment of an agricultural biosecurity area AND THAT ALL SUCH AGRICULTURAL BIOSECURITY AREAS SO ESTABLISHED BE CLEARLY AND CONSPICUOUSLY POSTED. THE DEPARTMENT MAY DEVELOP A REGULATION TO GOVERN THE FORM AND CONTENT OF POSTED NOTICE TO IDENTIFY AN AGRICULTURAL BIOSECURITY AREA. Nothing in this section shall be construed to authorize the department to require vaccination of any animal to prevent or control rabies whenever that animal is exempt from vaccination under the act of December 15, 1986 (P.L.1610, No.181), known as the Rabies Prevention and Control in Domestic Animals and Wildlife Act.

Section 3. The definition of "specified offense against property" in section 3311(d) of Title 18 is amended to read:

§ 3311. Ecoterrorism.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Specified offense against property." Any of the following offenses:

Section 3301(a), (c), (d), (d.1) and (f) (relating to arson and related offenses).

Section 3302 (relating to causing or risking catastrophe).

Section 3304 (relating to criminal mischief).



Section 3307 (relating to institutional vandalism).

Section 3309 (relating to agricultural vandalism).

Section 3310 (relating to agricultural crop destruction).

Section 3502 (relating to burglary) but only if the actor commits the crime for the purpose of committing one of the other offenses listed in this definition.

Section 3503 (relating to criminal trespass) but only if the actor commits the crime for the purpose of releasing a dangerous transmissible disease or hazardous substance, as those terms are defined under 3 Pa.C.S. § 2303 (relating to definitions), threatening or terrorizing the owner or occupant of the premises, starting or causing to be started any fire upon the premises or defacing or damaging the premises.

Section 3921 (relating to theft by unlawful taking or disposition).

Section 3922 (relating to theft by deception).

Section 4101 (relating to forgery).

Section 4120 (relating to identity theft).

Section 4. Section 3503 of Title 18 is amended by adding a subsection to read:

§ 3503. Criminal trespass.

(b.3) Agricultural biosecurity area trespasser.--

(1) A person commits an offense if the person does any of the following:

(I) ENTERS AN AGRICULTURAL BIOSECURITY AREA, KNOWING THAT THE PERSON IS NOT LICENSED OR PRIVILEGED TO DO SO.

(II) KNOWINGLY OR RECKLESSLY FAILS TO PERFORM REASONABLE MEASURES FOR BIOSECURITY THAT BY POSTED NOTICE ARE REQUIRED TO BE PERFORMED FOR ENTRY TO THE AGRICULTURAL BIOSECURITY AREA.

(2) IT IS A DEFENSE TO PROSECUTION UNDER PARAGRAPH (1) (II) THAT:

(I) NO REASONABLE MEANS OR METHOD WAS AVAILABLE TO PERFORM THE MEASURES THAT THE POSTED NOTICE REQUIRED TO BE PERFORMED FOR ENTRY TO THE AGRICULTURAL BIOSECURITY AREA;

(II) ENTRY IS MADE IN RESPONSE TO A CONDITION WITHIN THE AGRICULTURAL BIOSECURITY AREA THAT THE PERSON REASONABLY BELIEVES TO BE A SERIOUS THREAT TO HUMAN OR ANIMAL HEALTH AS NECESSITATING IMMEDIATE ENTRY TO THE AGRICULTURAL BIOSECURITY AREA; OR

(III) ENTRY IS MADE UNDER EXIGENT CIRCUMSTANCES BY A LAW ENFORCEMENT OFFICER TO:

(A) PURSUE AND APPREHEND A SUSPECT OF CRIMINAL CONDUCT REASONABLY BELIEVED BY THE OFFICER TO BE PRESENT WITHIN THE AGRICULTURAL BIOSECURITY AREA; OR

(B) PREVENT THE DESTRUCTION OF EVIDENCE OF CRIMINAL CONDUCT REASONABLY BELIEVED BY THE OFFICER TO BE LOCATED WITHIN THE AGRICULTURAL BIOSECURITY AREA.

(3) (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), AN OFFENSE UNDER PARAGRAPH (1) (I) CONSTITUTES A MISDEMEANOR OF THE THIRD DEGREE.

(II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), AN OFFENSE UNDER PARAGRAPH (1) (II) CONSTITUTES A SUMMARY OFFENSE.

(III) IF AN OFFENSE UNDER PARAGRAPH (1) CAUSES DAMAGE TO OR DEATH OF AN ANIMAL OR PLANT WITHIN AN AGRICULTURAL BIOSECURITY AREA, THE OFFENSE CONSTITUTES A MISDEMEANOR OF THE FIRST DEGREE.

(4) FOR PURPOSES OF THIS SUBSECTION, THE TERMS "AGRICULTURAL BIOSECURITY AREA" AND "POSTED NOTICE" SHALL HAVE THE MEANINGS GIVEN TO THEM IN 3 PA.C.S. § 2303 (RELATING TO DEFINITIONS).

Section 5. This act shall take effect immediately.

INSERT COUNTY LETTERHEAD  
Attachment 6  
**Example 1<sup>st</sup> Step Letter**

This attachment provides an example/template for conservation districts to use. Use of these model letters is not mandatory, but they have been developed for this effort based on comments received. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant

*Date*

*Operator's Name*  
*Address*

*Landowner's Name (if different than Operator)*  
*Address*

**Re: (DATE) Complaint Investigation Follow-Up**

Dear Mr. / Mrs. *Operator's Name/ Landowner's Name*,

As observed during our site visit on (DATE), your farming operation is not meeting Pennsylvania Regulatory Requirements defined under 25 Pa Code [Choose] Chapter 102 (Erosion and Sediment Pollution Control) and /or 25 Pa Code Chapter 91.36 (Manure Management) which are administered by the Department of Environmental Protection (Department).

The [District] wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter and the completed Pa Agricultural Investigation Form will assist you in complying with these regulations so you will not be subject to enforcement actions by the Department.

All farming operations in Pennsylvania are required to meet the Chapter 102 requirements through the use and implementation of Agricultural Erosion and Sedimentation Control Plans (E&S or conservation plan). Additionally, if the agricultural operation produces or uses manure, the operation must be in compliance with Chapter 91 through the use and implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Specifically, your operation is not in compliance with [List the regulatory deficiencies that were found such as the need for an E&S plan, manure

management plan, or the installation of certain BMPs] as detailed on the Pa Agricultural Investigation Form that was completed on [Date].

Both Chapter 102 and Chapter 91 hold the landowner and operator jointly responsible.

Through an agreement with the Department, the conservation district provides educational outreach to help landowner(s) / operator(s) understand and comply with their legal obligations under these regulatory requirements.

[For missing plan(s)]: You may develop your own Manure Management and Agricultural E&S Plans; however, it is recommended that you contact a qualified person to assist in the development of your plan(s). Attached you will find a list of technical service providers to assist you in [Choose] (developing and implementing the required plans) and/or (Implementation of Best Management Practice (BMPs)). It is best to contact multiple technical service providers to find the assistance that will meet your needs in the timeframe provided. The Conservation District or Natural Resources Conservation Service (NRCS) field office may also be able to assist.

**In order to meet the Department's compliance timeline, you will need to have [Choose]: (the required plans developed) and/or (start implementation of BMPs) by [Date<sup>1</sup>].** We recommend that you contact a planner as soon as possible in order to start the process recognizing the time it can take to [Choose] (develop a plan) and/or (implement BMPs).

If you are currently working with a technical service provider, or yourself are developing your plan(s) and/or starting BMP implementation, please contact me so that I can document your efforts to meet your legal obligations.

In closing, be aware that any violation of [Choose] (25 Pa Code Chapter 102) and/or (25 Pa Code Chapter 91) subjects you to possible enforcement actions by the Department, such as fines and/or orders, as provided by the law.

If you have any questions relating to this obligation, please contact me at the conservation district office at [Phone Number]. I will provide whatever additional direction you may need. I look forward to working with you and assisting as needed, so you may meet your obligations under these regulations.

Sincerely,

*Staff Person*

Enclosure: Commercial Nutrient Management Specialist and Certified Conservation Planner list

cc: File

**Choose** – Choose the planning or BMP implementation that is needed  
**Date<sup>1</sup>** = *This date should be about 90 days from the date the letter is expected to reach the farmer*

INSERT COUNTY LETTERHEAD

Attachment 7

## Example 2<sup>nd</sup> Step Letter

This attachment provides an example/template for conservation districts to use. Use of these model letters is not mandatory, but they have been developed for this effort based on comments received. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant

*Date*

*Operator's Name*

*Address*

*Landowner's Name (if different than Operator)*

*Address*

### Re: **(DATE)** Complaint Investigation Follow-Up

Dear Mr. and Mrs. *Operator's Name / Landowner's Name*,

This letter is being sent as a follow up to my previous letter dated *[Date<sup>1</sup>]* (If the district chose this option) and the Pa Agricultural Investigation Form dated [add dates from 1<sup>st</sup> investigation report and 2<sup>nd</sup> investigation report] informing you that your farming operation is not meeting Pennsylvania Regulatory Requirements defined under [Chose] (25 Pa Code Chapter 102 (Erosion and Sediment Pollution Control)) and /or (25 Pa Code Chapter 91.36 (Manure Management)), which are administered by the Department of Environmental Protection (Department).

Or

This letter is being sent because according to a site visit on *(add the dates of the 1<sup>st</sup> investigation and 2<sup>nd</sup> investigation)*, your farming operation is not meeting Pennsylvania Regulatory Requirements defined under [Chose] (Chapter 102 (Erosion and Sediment Pollution Control)) and /or (Chapter 91.36 (Manure Management)), which are administered by the Department of Environmental Protection (Department).

The [District] wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter and the completed Pa Agricultural Investigation Form will assist you in complying with these regulations so you will not be subject to enforcement actions by the Department.

All farming operations in Pennsylvania are required to meet the Chapter 102 requirements through the use and implementation of Agricultural Erosion and Sedimentation Control Plans (E&S or conservation plan). Additionally, if the agricultural operation produces or uses manure, the operation must be in compliance with Chapter 91 through the use and implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Specifically, your operation is not in compliance with [List the regulatory deficiencies that were found such as the need for an E&S plan, manure management plan, or the installation of certain BMPs] as detailed on the Pa Agricultural Investigation Form that was completed on [date of 1<sup>st</sup> and 2<sup>nd</sup> visits].

Both Chapter 102 and Chapter 91 hold the landowner and operator jointly responsible.

Through an agreement with the Department, the conservation district provides educational outreach to help landowner(s) / operator(s) understand and comply with their legal obligations under these regulatory requirements.

The [District] has not received notice that you have had the [Choose] (required plans written) and/or (started Best Management Plan (BMP) implementation)), within the 90 day timeframe provided in our [Choose](previous letter (if applicable)) and/or (as noted on the [date] Pa Agricultural Investigation Form).

[For missing plans]: You may develop your own Manure Management and Agricultural E&S Plans; however, it is recommended that you contact a qualified person to assist in the development of your plan(s). To gain compliance you are requested to work with a technical service provider. Attached you will find a list of technical service providers to assist you in [Choose] (developing and implementing the required plans) and/or (Implementation of BMPs). Please contact multiple technical service providers to find the assistance that will best meet your needs in the timeframe provided. The Conservation District or Natural Resources Conservation Service (NRCS) field office may also be able to assist.

**In order to meet the Department's compliance timeline, you will need to have [Choose]: (the required plans developed) and/or start implementation of BMPs) by [Date<sup>2</sup>].**

We recommend that you contact a planner as soon as possible in order to start the process recognizing the time it can take to [Choose] (develop a plan) and/or (implement BMPs).

If you are currently working with a technical service provider, or yourself are developing your plan(s) and/or starting BMP implementation, please contact me so that I can document your efforts to meet your legal obligations.

The *[District]* wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter will assist you in complying so that you will not be subject to enforcement actions by the Department.

In closing, be aware that any violation of *[Choose]* (25 Pa Code Chapter 102) and/or (25 Pa Code Chapter 91) subjects you to possible enforcement actions by Department, such as fines and/or orders, as provided by the law.

If you have any questions relating to this obligation, please contact me at the conservation district office at *[Phone Number]*. I will provide whatever additional direction you may need. I look forward to working with you as you proceed to meet your obligations under these regulations.

Sincerely,

*Staff Person*

cc: File

Enclosure: Commercial Nutrient Management Specialist and Certified Conservation Planner list

*Choose* - Choose the planning or BMP implementation that is needed

*Date* = Date of first step letter

*District* = Your conservation district name, such as Lebanon County Conservation District

*Date*<sup>2</sup> = This date should be about 45 days from the date the letter is expected to reach the farmer

*Phone Number* = Your office phone number



**INSERT COUNTY LETTERHEAD**  
**Attachment 8**

## **Example 3<sup>rd</sup> Step (Last Chance) Letter**

This attachment provides an example/template for conservation districts to use. Use of this specific model letters is not mandatory, but a last chance letter is required. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant.

Date

Certified Mail #: \_\_\_\_\_

Operator's Name  
Address

Landowner's Name (if different than Operator)  
Address

**Re: FINAL NOTICE - (DATE) Complaint Investigation Follow-Up**

Dear Mr. and Mrs. Operator's Name/Landowner's Name,

This letter is a follow up to staff's [choose] (one or two) previous letter(s) dated [Date(s)]<sup>1</sup> and the Pa Agricultural Inspection Forms dated (add dates of all 3 investigation reports) and serves as our final notice to inform you of your legal obligations in meeting [Chose] Pennsylvania Regulatory Requirements defined under (25 Pa Code Chapter 102 (Erosion and Sediment Pollution Control)) and/or (25 Pa Code Chapter 91.36 (Manure Management)).

The Pennsylvania Department of Environmental Protection (Department) administers these regulations. Through an agreement with the Department, the conservation district provides educational outreach to help landowner(s) / operator(s) understand and comply with their legal obligations under these regulatory requirements.

All farming operations in Pennsylvania are required to meet the Chapter 102 requirements through the use and implementation of Agricultural Erosion and Sedimentation Control Plans (Ag. E&S or conservation plan). Additionally, if the agricultural operation produces or uses manure, the operation must be in compliance with Chapter 91 through the use and

implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Both Chapter 102 and Chapter 91 hold the landowner and operator jointly responsible.

Specifically, your operation is not in compliance with (List the regulatory deficiencies that were found such as the need for an E&S plan, manure management plan, or implementation the plan(s) in accordance with the implementation schedule)

You have not complied with the [Choose] (plan writing) and (BMP implementation) requirements and timeframes provided in our previous [Choose] (one or two letters) and/or (previous investigation reports). **This letter represents your last chance to avoid having penalties or other enforcement actions taken against you by the Department due to non-compliance with Pennsylvania Regulatory Requirements.** Failure to heed this final notice will necessitate the referral of your case to the Regional Office of the DEP per the \_\_\_\_\_ County Conservation District Policy.

**In order to meet the DEP compliance timeline, you will need to develop and/or start implementation of the required plan(s) by [Date<sup>2</sup>].** If you are currently working with a certified commercial nutrient management specialist, agricultural E&S planner, or you are developing your plan(s) and starting BMP implementation, please contact me so that staff can document your efforts to meet your legal obligations.

If you have any questions relating to this obligation, please contact the conservation district office at [Phone Number] so that staff can provide whatever additional direction you may need.

Sincerely,

[CCD] Chairperson

cc: [Name], DEP regional office  
File

Choose – Choose the planning or BMP implementation that is needed

Dates<sup>1</sup> = Dates (2 dates) of 1<sup>st</sup> (if applicable) and 2<sup>nd</sup> step letters

Date<sup>2</sup> = This date should be about 15 days from the date the letter is expected to reach the farmer

Phone Number = Your office phone number

CCD = The name of your district, such as Lebanon County Conservation District

**Date:** \_\_\_\_\_

**Operation Name:** \_\_\_\_\_

**Person (s) Interviewed (Operator):** \_\_\_\_\_

**Report Completed By:** \_\_\_\_\_

**Others Present:** \_\_\_\_\_

**Date of Plan Development:** \_\_\_\_\_

**Date of Most Recent Plan Update:** \_\_\_\_\_

<b><u>1. Manure Management Plan (MMP) Verification</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>N/A</u></b>
<b>a. Is the MMP administratively complete?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

a. Are actual animal numbers consistent with the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
b. Acreage receiving manure application _____			
c. Does plan information and mapping represent operation?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
d. Are all sources of nutrients used addressed in the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
e. Are all Environmentally Sensitive Areas addressed in the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
f. Is plan implementation on schedule?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
g. Are installed BMPs being maintained?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
h. Are manure application rates being followed?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

<b>i. Is a “current” Conservation Plan or Ag E &amp; S Plan in effect?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>j. Is exported manure handled according to the plan?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>k. Is the manure spreader calibrated to apply planned rates?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>l. Are required <u>in-field</u> stacking procedures implemented?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>If yes, are site(s) identified on plan maps?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>If yes, are site(s) appropriate?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>m. Are fall/winter manure applications according to plan?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>n. Are the required setbacks being observed?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>o. Are pastured animals being managed as outlined in the plan?</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

<b>a. Crop yields:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>b. Manure/fertilizer application rates:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>c. Soil test results current:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>d. Manure test results current:</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>e. Manure transfer records:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>f. Nutrient balance sheets:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b>g. Rerun of the P-Index every 3 years:</b>	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

**h. Manure storage facility record monthly inspection:**

☐ ☐\* ☐  
**Yes No N/A**

**4. Manure Storage Information (where applicable)**

**Note:** Although they may not be §91.36 violations, “No” answers in this section require remedial action.

**a. Storage type and size:** \_\_\_\_\_

**b. Is perimeter fence and warning signage in place/maintained?** ☐ ☐ ☐

**c. Is the structure free of significant cracks or structural damage?** ☐ ☐ ☐

**d. Are embankments free of manure saturated areas (seepage)?** ☐ ☐ ☐

**e. Are interior/exterior slopes free of holes, trees or erosion?** ☐ ☐ ☐

**f. Has storage been certified by a Professional Engineer?** ☐ ☐\* ☐

**5. Animal Concentration Areas (ACAs)**

**Yes No N/A**

**a. Are there ACAs on the operation (farmstead or pasture)?** ☐ ☐ ☐

**b. Is surface water adequately protected from runoff?** ☐ ☐\* ☐

**c. Is erosion properly controlled at stream access point?** ☐ ☐\* ☐

**d. Is manure collected and handled appropriately?** ☐ ☐\* ☐

**e. Is animal access to stream properly controlled?** ☐ ☐\* ☐

**f. Are pastures free of ACAs where runoff is reaching a stream?** ☐ ☐\* ☐

**Inspector Notes:**

**Yes No**

**Are there violations of §91.36 regulations?**

☐ ☐

**If yes, specific violations (indicate section number and letter above):**

\_\_\_\_\_  
\_\_\_\_\_

**Are corrective actions needed?**

☐ ☐

**If yes, set approximate re-inspection date:** \_\_\_\_\_

**Further action required (indicate section number and letter above):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Additional Comments:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Signature of Inspector:** \_\_\_\_\_

**Signature of Operator:** \_\_\_\_\_

(Operator signature does not signify guilt or agreement)

## Attachment 10

Date

Name<sup>1</sup>

Address<sup>2</sup>

Address<sup>2</sup>

RE: Manure Management Program On-site Status Review Follow-up Report

Dear Name<sup>1</sup>,

This letter is sent to you as a follow up to my [Date<sup>3</sup>] site visit where I performed a Manure Management Status Review of your Manure Management Plan (MMP), assessing the status of your implementation of your plan, and your compliance with §91.36(b). Attached to this letter is a copy of the status review report which outlines the findings from my visit.

As is indicated on the inspection report, you were found to be compliant with your obligations under §91.36(b). Thank you for implementing your MMP, and for maintaining the records required for your animal operation under §91.36(b).

As a reminder, your current MMP should be reviewed annually and updated to remain consistent with the current conditions and management of the operation.

I would like to thank you for your cooperation with the MMP program. If you have any questions relating to this letter, please contact me at the conservation district office so that I can provide whatever additional information or direction you may need.

Sincerely,

Name<sup>4</sup>

Title<sup>5</sup>

Enclosures:

Copy of the Manure Management On-Site Status Review Report

cc: File

Plan writer of the MMP (if different than the operator)

Name<sup>1</sup> = Name of Operator

Address<sup>2</sup> = Mailing address of the operation

Date<sup>3</sup> = Date status review was performed

Name<sup>4</sup> = Name of the reviewer

Title<sup>5</sup> = Title of the reviewer

INSERT COUNTY LETTERHEAD  
Attachment 11  
**Example MMP SR 1<sup>st</sup> Step Letter**

This attachment provides an example/template for conservation districts to use. Use of these model letters is not mandatory, but they have been developed for this effort based on comments received. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant

**Date**

**Operator's Name**

**Address**

**Re: (Date) Manure Management Program On-Site Status Review Follow-Up**

Dear Mr. / Mrs. **Operator's Name,**

As observed during our site visit on **(DATE)**, your farming operation is not meeting Pennsylvania Regulatory Requirements defined under 25 Pa Code Chapter 91.36 (Manure Management) which are administered by the Department of Environmental Protection (Department).

The **[District]** wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter and the completed Manure Management Program On-Site Status Review Form will assist you in complying with these regulations so you will not be subject to enforcement actions by the Department.

All farming operations in Pennsylvania that land apply manure or agricultural process wastewater, including manure that is directly applied by pastured animals, are required to meet the Chapter 91 requirements through the use and implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Specifically, your operation is not in compliance with **[List the regulatory deficiencies that were found such as the need for a MMP, or the installation of certain BMPs]** as detailed on the Manure Management Program On-Site Status Review Form that was completed on **[Date]**.

Chapter 91 holds the operator responsible for the implementation of the MMP.

Through an agreement with the Department, the conservation district provides educational outreach to help operator(s) understand and comply with their legal obligations under these regulatory requirements.

**[For missing plan]: You may develop your own MMP; however, it is recommended that you contact a qualified person to assist in the development of your plan. Attached you will find a list of technical service providers to assist you in [Choose]] (developing and**

implementing the required plan) and/or (Implementation of Best Management Practice (BMPs)). It is best to contact multiple technical service providers to find the assistance that will meet your needs in the timeframe provided. The Conservation District or Natural Resources Conservation Service (NRCS) field office may also be able to assist.

**In order to meet the Department's compliance timeline, you will need to have Choose]: (the required plans developed) and/or (start implementation of BMPs) by [Date<sup>1</sup>].** We recommend that you contact a planner as soon as possible in order to start the process recognizing the time it can take to [Choose] (develop a plan) and/or (implement BMPs).

If you are currently working with a technical service provider, or you are developing your plan(s) and/or starting BMP implementation, please contact me so that I can document your efforts to meet your legal obligations.

In closing, be aware that any violation of 25 Pa Code Chapter 91 subjects you to possible enforcement actions by the Department, such as fines and/or orders, as provided by the law.

If you have any questions relating to this obligation, please contact me at the conservation district office at [Phone Number]. I will provide whatever additional direction you may need. I look forward to working with you and assisting as needed, so you may meet your obligations under these regulations.

Sincerely,

*Staff Person*

Enclosures:

1. Commercial Nutrient Management Specialist and Certified Conservation Planner list
2. Manure Management Program On-Site Status Review Form

cc: File

**Choose** – Choose the planning or BMP implementation that is needed

**Date<sup>1</sup>** = This date should be about 90 days from the date the letter is expected to reach the farmer



INSERT COUNTY LETTERHEAD

Attachment 12

## Example MMP SR 2<sup>nd</sup> Step Letter

This attachment provides an example/template for conservation districts to use. Use of these model letters is not mandatory, but they have been developed for this effort based on comments received. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant

**Date**

**Operator's Name**

**Address**

**Re: (Date) Manure Management Program On-Site Status Review Follow-Up**

Dear Mr. and Mrs. **Operator's Name,**

This letter is being sent as a follow up to my previous letter dated **[Date]** and the Manure Management Program On-Site Status Review Form dated **[Date<sup>2</sup>]** and the PA Agricultural Investigation Form dated **[Date<sup>3</sup>]** informing you that your farming operation is not meeting Pennsylvania Regulatory Requirements defined under 25 Pa Code Chapter 91.36 (Manure Management), which are administered by the Department of Environmental Protection (Department).

The **[District]** wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter, the Manure Management Program On-Site Status Review Form, and the completed PA Agricultural Investigation Form will assist you in complying with these regulations so you will not be subject to enforcement actions by the Department.

All farming operations in Pennsylvania that land apply manure or agricultural process wastewater, including manure that is directly applied by pastured animals, are required to meet the Chapter 91 requirements through the use and implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Specifically, your operation is not in compliance with [List the regulatory deficiencies that were found such as the need for a MMP, or the installation of certain BMPs] as detailed on the Manure Management Program On-Site Status Review Form and PA Agricultural Investigation Form that was completed on **[date of 1st and 2nd visits]**.

Chapter 91 holds the operator responsible for the implementation of the MMP.

Through an agreement with the Department, the conservation district provides educational outreach to help operator(s) understand and comply with their legal obligations under these regulatory requirements.

The **[District]** has not received notice that you have had the **[Choose] (required plan written) and/or (started Best Management Plan (BMP) implementation)), within the 90 day timeframe provided in our [Choose](previous letter (if applicable)) and/or (as**

noted on the [date] Manure management Program On-Site Status Review Form. [For missing plan]: You may develop your own MMP; however, it is recommended that you contact a qualified person to assist in the development of your plan. To gain compliance you are requested to work with a technical service provider. Attached you will find a list of technical service providers to assist you in [Choose] (developing and implementing the required plan) and/or (Implementation of BMPs). Please contact multiple technical service providers to find the assistance that will best meet your needs in the timeframe provided. The Conservation District or Natural Resources Conservation Service (NRCS) field office may also be able to assist. **In order to meet the Department's compliance timeline, you will need to have [Choose]: (the required plans developed) and/or start implementation of BMPs) by [Date<sup>4</sup>].**

We recommend that you contact a planner as soon as possible in order to start the process recognizing the time it can take to [Choose] (develop a plan) and/or (implement BMPs). If you are currently working with a technical service provider, or yourself are developing your plan and/or starting BMP implementation, please contact me so that I can document your efforts to meet your legal obligations.

The [District] wants to help you understand and meet the requirements under these regulations and we hope that our direction provided in this letter will assist you in complying so that you will not be subject to enforcement actions by the Department. In closing, be aware that any violation of 25 Pa Code Chapter 91 subjects you to possible enforcement actions by Department, such as fines and/or orders, as provided by the law.

If you have any questions relating to this obligation, please contact me at the conservation district office at [Phone Number]. I will provide whatever additional direction you may need. I look forward to working with you as you proceed to meet your obligations under these regulations.

Sincerely,

*Staff Person*

cc: File

Enclosure:

1. Commercial Nutrient Management Specialist and Certified Conservation Planner list
2. Manure Management Program On-Site Status Review Form (first visit)
3. PA Agricultural Investigation Form (second visit)

**Choose -** Choose the planning or BMP implementation that is needed

**Date** = Date of first step letter

**District** = Your conservation district name, such as Lebanon County Conservation District

**Date<sup>2</sup>** = Date of Manure Management Program On-Site Status Review Form

**Date<sup>3</sup>** = Date of PA Agriculture Investigation Form

**Date<sup>4</sup>** = This date should be about 45 days from the date the letter is expected to reach the farmer

**Phone Number** = Your office phone number

**INSERT COUNTY LETTERHEAD**  
**Attachment 13**  
**Example MMP SR 3<sup>rd</sup> Step (Last  
Chance) Letter**

This attachment provides an example/template for conservation districts to use. Use of this specific model letters is not mandatory, but a last chance letter is required. Communication with the landowner/operator is important and conservation districts are encouraged to follow-up with the landowner/ operator, and the complainant.

**Date**

USPS Regular Mail and

Certified Mail #: \_\_\_\_\_

**Operator's Name**

**Address**

**Re: FINAL NOTICE – (Date) Manure Management Program On-Site Status Review Follow-Up**

Dear Mr. and Mrs. **Operator's Name**,

This letter is a follow up to staff's previous letters dated **[Dates<sup>1</sup>]**, the Manure Management Program On-Site Status Review Form, the PA Agricultural Inspection Forms dated **(add dates of all 3 forms)** and serves as our final notice to inform you of your legal obligations in meeting Pennsylvania Regulatory Requirements defined under (25 Pa Code Chapter 91.36 (Manure Management)).

The Pennsylvania Department of Environmental Protection (Department) administers these regulations. Through an agreement with the Department, the conservation district provides educational outreach to help operator(s) understand and comply with their legal obligations under these regulatory requirements.

All farming operations in Pennsylvania that land apply manure or agricultural process wastewater, including manure that is directly applied by pastured animals, are required to meet the Chapter 91 requirements through the use and implementation of a Manure Management Plan (MMP) or higher-level Nutrient Management Plan (NMP).

Chapter 91 holds the operator responsible for the implementation of the MMP.

Specifically, your operation is not in compliance with **(List the regulatory deficiencies that were found such as the need for a MMP, or implementation the plan in accordance with the implementation schedule)**

You have not complied with the [Choose] (plan writing) and (BMP implementation) requirements and timeframes provided in our previous letters, status review form, investigation form. **This letter represents your last chance to avoid having penalties or other enforcement actions taken against you by the Department due to non-compliance with Pennsylvania Regulatory Requirements.** Failure to heed this final notice will necessitate the referral of your case to the Regional Office of the DEP per the \_\_\_\_\_ County Conservation District Policy.

**In order to meet the DEP compliance timeline, you will need to develop and/or start implementation of the required plan(s) by [Date<sup>2</sup>].** If you are currently working with a certified commercial nutrient management specialist, agricultural E&S planner, or you are developing your plan(s) and starting BMP implementation, please contact me so that staff can document your efforts to meet your legal obligations.

If you have any questions relating to this obligation, please contact the conservation district office at [Phone Number] so that staff can provide whatever additional direction you may need.

Sincerely,

[CCD] Chairperson

cc: [Name], DEP regional office  
File

**Choose** – Choose the planning or BMP implementation that is needed

**Dates<sup>1</sup>** = Dates (2 dates) of 1<sup>st</sup> and 2<sup>nd</sup> step letters

**Date<sup>2</sup>** = This date should be about 15 days from the date the letter is expected to reach the farmer

**Phone Number** = Your office phone number

**CCD** = The name of your district, such as Lebanon County Conservation District

# Chapter 5

## Appendices

## Chapter 5 – Appendices

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# STATEMENT OF POLICY FOR THE NUTRIENT MANAGEMENT FUNDING PROGRAM

## APPENDIX I



## **Subchapter E. NUTRIENT MANAGEMENT FUNDING PROGRAM—STATEMENT OF POLICY**

### **GENERAL PROVISIONS**

Sec.

83.501. Purpose. 83.502. Definitions.

### **TECHNICAL ASSISTANCE FUNDING PROGRAM**

83.511. General requirements. 83.512. Procedures for allocating funds. 83.513. Application procedures. 83.514. Reimbursement procedures. 83.515. Advance payments. 83.516. Allowed expenses. 83.517. Reporting requirements. 83.518. Relationship to other programs and money sources. 83.519. Special provisions.

### **PDIP**

83.521. General. 83.522. Procedures for allocating PDIP funds. 83.523. Agreement procedures and requirements. 83.524. Reimbursement procedures. 83.525. Advance payments to cooperating organizations. 83.526. Allowable administrative expenses. 83.527. Conservation district responsibilities. 83.528. Cooperating organization responsibilities.

### **Source**

The provisions of this Subchapter E adopted August 22, 1997, effective August 23, 1997, 27 Pa.B. 4355, unless otherwise noted.

### **GENERAL PROVISIONS**

#### **§ 83.501. Purpose.**

- (a) It is the intention of the Commission to provide delegated conservation districts with funds to assist districts in the implementation of the Program developed under the act, if the district complies with the terms and conditions of this subchapter. The funds will be used for the employment of technical staff, to provide administrative funding assistance to the district and to finance other Commission approved activities under the Program.
- (b) The Commission will annually allocate the available funding for this program and will provide for the fair and equitable distribution of funds.
- (c) The purpose of the Technical Assistance Funding Program is to provide assistance to delegated districts for employment of technical staff, administrative purposes and other Commission approved activities to carry out those district functions necessary to implement the Program.
- (d) The purpose of the PDIP is to provide financial support to the operators of concentrated animal operations or other agricultural operations for the development of an approved nutrient management plan under the act.

#### **§ 83.502. Definitions.**

The definitions in § 83.201 (relating to definitions) apply to this subchapter. In addition, the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Cooperating organization—An organization approved by the Commission to assist in carrying out the Conservation District Law (3 P. S. § § 849—864).

Directors—The district's board of directors as defined in the Conservation District Law.

Nutrient management technician—A person employed by the district to perform those duties necessary to implement the Program developed under the act.

PDIP—Plan Development Incentives Program—The program established in § § 83.211—83.216 (relating to PDIP).

Program—The Nutrient Management Program.

## **TECHNICAL ASSISTANCE FUNDING PROGRAM**

### **§ 83.511. General requirements.**

- (a) This program is known as the Technical Assistance Funding Program.
- (b) State and Federal funds allocated to districts for the Technical Assistance Funding Program shall be used solely to employ nutrient management technicians and finance administrative expenses and other Commission approved activities to implement the act. The funding allocation will be based on the level of responsibilities assumed by the district in the Program as specified in the delegation agreement with the Commission.
- (c) The nutrient management technician is not an employee of the Commission. A person serving as a nutrient management technician shall receive general supervision from a district director or an employee of the district designated by the board of directors.
- (d) The Commission will prioritize and determine the amount of funding provided to each district and the nature and extent of expense to be funded.
- (e) If an evaluation of the district's performance reveals that the district is not performing satisfactorily at the authorized level, the Commission has the authority to reduce the funding allocation to that district.
- (f) Within 60 days of the termination of the delegation agreement with the district, the Commission may require the return of equipment and nonexpendable supplies purchased under the delegation agreement.
- (g) Fines, fees, judgments and interest collected by the district on behalf of the Commission under the Program shall be paid or credited to the Fund at the end of each quarter.
- (h) The Commission may audit any records or accounts of the district under the Program.

### **§ 83.513. Application procedures.**

- (a) An application for available funds, including requests for advance payments, shall be in writing on forms approved by the Commission. The application shall be received by the deadline established by the Commission for filing applications. The application shall also include a budget outlining anticipated expenses.

- (b) Applications will be approved based upon the priorities set by the Commission and the availability of funds.
- (c) Applications for districts will not be approved and expenses cannot be incurred unless the district has entered into a fully approved delegation agreement.
- (d) Applications will be for a calendar year period, unless other time periods are established by the Commission.

**§ 83.514. Reimbursement procedures.**

- (a) Claims for reimbursement shall be made on forms approved by the Commission.
- (b) Claims for reimbursement shall be submitted to the Commission within days of the end of each quarter. The days are April 15, July 15, October 15 and January 15.
- (c) The Commission will suspend claim processing until receipt of required reports or the completion of all conditions of the agreement

**§ 83.515. Advance payments.**

- (a) Requests for advance payments shall be made on forms approved by the Commission.
- (b) Advance payments to cover expenses for the first claim of each year may be requested from the Commission. Advance payments will be based on demonstrated need in accordance with the Commission-approved district budget submitted with the application.
- (c) Advance payments and unspent funds shall be placed in an insured, interest bearing account. To document the amount of interest to be paid or credited to the Fund, the district may use methods that are equal to the method used by the account holding the unspent program funds that follow generally accepted accounting principles.
- (d) Requests for advance payments to cover expenses for the first claim of each year shall be submitted to the Commission by January 15, or as established by the Commission.
- (e) Claims may be filed for reimbursement for the first and second quarter. Claims shall be submitted to the Commission within 15 days of the end of the quarter.
- (f) Expenses for the third quarter shall be submitted, but no payments will be processed until final claims are submitted at the end of the fourth quarter. A final yearly payment will be made after balancing money provided in the initial advanced payment with claims for the third and fourth quarter. No advancement of funds will be made until final approval of the previous quarterly report of expenditures is given by the Commission.
- (g) The Commission will suspend advance payment processing until receipt of required reports or the completion of all conditions of the agreement.

**§ 83.516. Allowed expenses.**

- (a) Eligible expenses directly related to implementation of the delegation agreement and the Technical Assistance Funding Program include:

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- (1) Salary, benefits and associated costs (for example, travel and training) of an act technician (if not reimbursed from other State or Federal programs).
- (2) Clerical assistance and managerial oversight provided to the program (if not reimbursed from other State or Federal programs).
- (3) Materials, supplies, equipment, postage, phone bills, office rent, legal expenses, certification fees and administrative travel.
- (b) The district will be bound by the terms and conditions of the approved application and budget. The Commission, at its own discretion, may require specific technical and administrative funding levels.
- (c) Budget modifications for reallocations of up to 10% of the total approved annual budget amount between the categories of an approved budget shall be approved in writing by the Commission prior to expenses being incurred.

**§ 83.517. Reporting requirements.**

- (a) Reports shall be filed as specified on forms or in a format approved by the Commission.
- (b) The dates for report submission are April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.
- (c) Processing of expense claims or request for advance payment will not begin until required reports are received by the Commission.
- (d) Records shall be maintained for 3 years following termination of the agreement with the Commission.

**§ 83.518. Relationship to other programs and money sources.**

- (a) Individuals being funded by the Technical Assistance Funding Program may participate in other programs, but the district providing technical, clerical or managerial assistance for the Program may not apply for or receive payment from more than one program for the same work.
- (b) Money received through the Technical Assistance Funding Program shall be used solely for the program purposes authorized by the Commission.

**§ 83.519. Special provisions.**

- (a) Funds not used for the purposes authorized by the Commission will be deducted from the following year's allocation to that district.
- (b) The Commission may delegate authority to the Commission's staff to act on its behalf.

## **PDIP**

### **§ 83.521. General.**

- (a) This program is known as the Plan Development Incentives Program (PDIP).
- (b) State and Federal funds allocated for the PDIP shall be used solely to finance a portion of the costs associated with the development of plans for agricultural operations planning under the act and those administrative expenses of delegated conservation districts or cooperating organizations associated with the implementation of the PDIP.
- (c) Eligibility for cost-share funding under the PDIP is limited to operators of concentrated animal operations and other agricultural operations participating under the act as defined in § 83.211 (relating to applicant eligibility).
- (d) PDIP participants shall submit an application for PDIP funds to the Commission or a delegated conservation district on forms provided by the Commission.
- (e) Funding levels for PDIP shall be determined by the Commission. Availability of funds to eligible participants will be determined as described in § 83.213 (relating to application prioritization criteria).
- (f) The Commission or a delegated conservation district will evaluate applications for eligibility, prioritization and allowable reimbursement based on criteria established in § § 83.211—83.216 (relating to Plan Development Incentives Program) and other guidance established by the Commission.
- (g) An approved application for funding shall remain effective for 180 days from the date of approval by a delegated conservation district or the Commission.
- (h) The Commission may audit PDIP records or accounts of the conservation district or cooperating organization assisting in the administration of the PDIP.

### **§ 83.522. Procedures for allocating PDIP funds.**

- (a) The Commission will determine the amounts of funds available for the PDIP.
- (b) The Commission will determine the cost share rates for reimbursement to participants for the PDIP.
- (c) The Commission will determine the nature and extent of administrative expenses to be funded to delegated conservation districts and cooperating organizations.

### **§ 83.523. Agreement procedures and requirements.**

- (a) The Commission will execute an agreement with a participating conservation district or cooperating organization specifying the terms and conditions for providing PDIP funds, including advance payments to cooperating organizations, if requested. Allowable reimbursable items for administering PDIP will include those items determined by the Commission to be necessary to carry out the agreement or PDIP.
- (b) Conservation districts or cooperating organizations may not incur reimbursable expenses in advance of the effective date of the agreement or contract with the Commission.

**§ 83.524. Reimbursement procedures.**

- (a) Claims for reimbursement by delegated conservation districts or cooperating organizations shall be made on forms or in a format approved by the Commission.
- (b) Claims for reimbursement by the cooperating organization shall be submitted to the Commission within 15 days of the end of each quarter. These days are April 15, July 15, October 15 and January 15. A summary of PDIP activities during the quarter shall be included with the claim for reimbursement for that quarter.
- (c) The Commission will suspend claim processing to a cooperating organization until receipt of the required quarterly report or the completion of all conditions of the agreement.
- (d) Claims for reimbursement by a delegated conservation district shall be made on forms or in a format approved by the Commission and submitted to the cooperating organization within 15 days of the end of each quarter. These days are April 15, July 15, October 15 and January 15.

**§ 83.525. Advance payments to cooperating organizations.**

- (a) The Commission may advance funds to cover expenses for the first claim of each year as requested. Advance payments will be based on a demonstrated need in accordance with the Commission-approved budget submitted with the application.
- (b) When the Commission has determined that an emergency payment is necessary to assure cash flow to a cooperating organization, the Commission will advance funds based on demonstrated need in accordance with criteria established by the Commission.
- (c) Advance payments and unspent funds shall be placed in an insured, interest bearing account. To document the amount of interest to be credited to the fund, a cooperating organization may use methods that are equal to the methods used by the account holding the unspent PDIP funds that follow generally accepted accounting principles.
- (d) Request for advance payments to cover expenses for the first claim of each year shall be submitted to the Commission by January 15, or as established by the Commission. Requests for advance payments shall be made on forms or in a format approved by the Commission.
- (e) Advance payments will include cost-share funds for disbursement to PDIP participants and administrative costs of the delegated conservation district or cooperating organization as determined by the Commission necessary for the administration of the PDIP.
- (f) Claims may be filed for reimbursement for the first, second and third quarter. Claims shall be submitted to the Commission within 15 days of the end of the quarter.
- (g) If an agreement between the Commission and a cooperating organization is terminated, all unspent PDIP funds pertaining to the agreement shall be returned

to the Commission within 10 days.

**§ 83.526. Allowable administrative expenses.**

Eligible expenses directly related to the implementation of PDIP may include approved charges for staff support, office equipment and supplies, accounting supplies, postage, telephone charges, office rent, legal expenses, and bank charges and other expenses as determined appropriate by the Commission.

**§ 83.527. Conservation district responsibilities.**

- (a) A delegated conservation district is encouraged to promote PDIP participation through sign-up periods or other processes as an integrated element of the conservation district's education and outreach programs.
- (b) A delegated conservation district shall evaluate applications for eligibility, prioritization and allowable reimbursement based on criteria established in §§ 83.211—83.216 (relating to Plan Development Incentives Program) and other PDIP guidance established by the Commission.
- (c) A delegated conservation district shall transmit to the cooperating organization a request for an allocation and authorization for payment of PDIP funds for the applicant.
- (d) PDIP activity reports shall be filed quarterly to the Commission on forms or in a format approved by the Commission.
- (e) PDIP reports shall be submitted to the Commission on April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.
- (f) Records shall be maintained for 3 years following the termination of the agreement with the Commission.

**§ 83.528. Cooperating organization responsibilities.**

- (a) The cooperating organization shall obligate funds to the approved PDIP applications submitted by the conservation district.
- (b) The cooperating organization shall disburse PDIP funds in the form of a one-time payment according to funding levels established by the Commission to approved applicants. Records of these fund disbursements shall be submitted to the Commission on a quarterly basis.
- (c) The cooperating organization shall deposit advance funds in an insured, interest bearing account. Interest generated by these advance funds shall be utilized within the PDIP.
- (d) The cooperating organization shall disburse administrative funds to participating delegated conservation districts for their efforts under the PDIP. Administrative funding levels for conservation district PDIP activities will be determined by the Commission.
- (e) Reports shall be submitted as specified on forms or in a format approved by the Commission. These reports shall detail quarterly activities and cost share and administrative fund disbursements.

## Appendix I – Statement of Policy

- (f) PDIP reports shall be submitted to the Commission on April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.
- (g) Records shall be maintained for 3 years following termination of the agreement with the Commission.



# DELEGATION AGREEMENT

## APPENDIX II

**AGREEMENT FOR DELEGATION OF  
ADMINISTRATIVE RESPONSIBILITIES  
FOR THE PENNSYLVANIA  
NUTRIENT MANAGEMENT  
AND  
MANURE MANAGEMENT PROGRAMS**

THIS DELEGATION AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by and between the Commonwealth of Pennsylvania ("Commonwealth") through its Pennsylvania State Conservation Commission ("Commission or SCC") and its Pennsylvania Department of Environmental Protection ("DEP"), and the «**GranteeActual**» ("District").

**WITNESSETH:**

WHEREAS, the Commonwealth's Nutrient Management Program ("Act 38 program") and Odor Management Program implement the Nutrient and Odor Management regulations at 25 Pa. Code, Chapter 83 as authorized by the Nutrient and Odor Management Act, 3 Pa. C.S.A. §§ 501 et seq. ("Act 38"), which includes provisions for nutrient and odor management, the Clean Streams Law, 35 P.S. §§ 691.1 et seq. and the Conservation District Law, 3 P.S. §§ 849 et seq. The District will be the Commission's designee/agent in administering the Act 38 program and Odor Management program, as further outlined in this agreement;

WHEREAS, the Commonwealth's Manure Management Program ("Chapter 91 program") implements the provisions of 25 Pa. Code § 91.36 of the Clean Streams Law regulations, relating to pollution control and prevention at agricultural operations, as authorized by the Clean Streams Law, 35 P.S. §§ 691.1 et seq. § 1920-A of the Administrative Code of 1929, 71 P.S. § 510-20, and the Conservation District Law, 3 P.S. §§ 849 et seq. The District will be the DEP's designee/agent in administering Pennsylvania's Manure Management Program, and the public notice requirements for Concentrated Animal Feeding Operations ("CAFOs") under the Clean Streams Law;

WHEREAS, the Commonwealth's Manure Hauler and Broker Program ("Act 49 program") implements the provisions of the Commercial Manure Hauler and Broker Certification Act, 3 P.S. §§ 2010.1 et seq. ("Act 49") which establishes a program to certify commercial manure brokers to develop Nutrient Balance Sheets ("NBSs") related to exporting and importing manure, and requires brokers to submit copies of the NBSs to county conservation districts ("districts"). The District will be the Commission's designee/agent in administering certain duties and responsibilities of Pennsylvania's Commercial Manure Hauler and Broker Program, as further outlined in this agreement;

WHEREAS, § 850 of the Conservation District Law, 3 P.S. § 850, declares the policy of the Commonwealth to provide for the conservation of soil, water, and related resources of the Commonwealth;

WHEREAS, the Commission is authorized to delegate regulatory and enforcement functions to districts pursuant to § 859(2)(b) of the Conservation District Law, 3 P.S. § 859(2)(b);

WHEREAS, the Commission is authorized to delegate administrative or enforcement authority, or both, to districts that have an adequate program and sufficient resources for Act 38 program implementation pursuant to § 504(9) of Act 38, 3 Pa. C.S.A. § 504(9);

WHEREAS, the program and policies of the District are acceptable to the Commission; WHEREAS, DEP is authorized to delegate regulatory and enforcement functions to districts under the Clean Streams Law and the rules and regulations promulgated thereunder, including the Chapter 91 program, pursuant to § 859(2)(a) of the Conservation District Law, 3 P.S. § 859(2)(a);

WHEREAS, the administration of program funding under this agreement will be consistent with the statement of policy titled, "Nutrient Management Funding Program," 25 Pa. Code, Chapter 83, Subchapter E; and

WHEREAS, such laws, regulations, programs and policies provide for the execution of this agreement for the delegation by and between the District, DEP and the Commission for the accomplishment of work by conducting District activities and completing required output measures as described in Attachment A attached hereto.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties intending to be legally bound agree as follows:

1. **GENERAL CONDITIONS:**

**DELEGATION:**

- a. The Commission and DEP hereby delegate to the District certain responsibilities of the Act 38 program, the Chapter 91 program, and the Act 49 program, in the respective county for program implementation in accordance with all applicable state statutes, rules, regulations, and the requirements set forth in Attachment A.

**WORK ELEMENTS:**

- b. The District must obtain prior written approval from the Commission and DEP, of changes or additions to the General and Special Conditions of this agreement, including but not limited to the program required output measures contained in Attachment A.

**INDEMNIFICATION:**

- c. The Commonwealth will defend and indemnify District directors, associate District directors, and District employees when performing delegated duties or functions to the same extent as it defends and indemnifies Commonwealth employees; and all directors and employees shall have all immunities afforded by law to Commonwealth employees, 3 P.S. § 852(2).
- d. At the request of the Commission, the Attorney General and/or Office of General Counsel will provide legal services to districts as required in relation to the duties and functions outlined in the agreement, 3 P.S. § 852(2).

**ADDITIONAL TERMS AND CONDITIONS:**

- e. The District shall comply with the terms and conditions of Attachment B, Commonwealth Terms and Conditions; Attachment C, Staff Resources; Attachment D, Proposal; and Attachment E, Federal Requirements, all attached to this agreement. For purposes of Attachment B, all references to the "Contractor" or "Grantee" are references to the "District".

**SUSPENSION OF DELEGATION:**

- f. When the terms and conditions of the agreement are not materially being met, the Commission and DEP, whichever is the appropriate delegating agency, may, after a 30-day notice, suspend the District's authority under this agreement until corrective action has been taken to the satisfaction of the Commission or DEP, whichever appropriate, or until the agreement is terminated.

**TERMINATION:**

- g. This agreement may be terminated by either the District or the Commission or DEP, whichever agency is appropriate, upon thirty (30) days prior written notice to the other parties. Within 10 days of such termination, the District shall release to the Commission or DEP, whichever agency is appropriate, all files, records, and unspent funds pertaining to this agreement.

**EXAMINATION OF RECORD:**

- h. The Commission and DEP, or its agent, shall have access to and the right to examine any pertinent books, documents, letters, and reports or records involving transactions relating to the District's delegated authorities.

**NO FINANCIAL INTEREST:**

- i. No District Director, District employee, Commission member, or staff of the Commission or DEP, is permitted to obtain financial benefits for himself/herself, a member of their family, or a business with which they are associated, through or as a result of, work under this agreement. This shall not preclude the participation of the above individuals in the financial and technical assistance programs developed under Act 38, as long as their participation follows those procedures outlined in the "Pennsylvania Nutrient Management and Manure Management Manual Program, Act 38 and Chapter 91 Administrative Manual" ("Administrative Manual") and is in accordance with applicable law, including the Public Official and Employee Ethics Act, 65 Pa. C.S. §§ 1101 et seq.

**TERM:**

- j. This agreement shall become effective on the date it is fully executed by the Commonwealth. The term of this agreement shall be for five (5) years from the effective date.

2. **SPECIAL CONDITIONS:**

- a. Duties and Responsibilities of the District. The District shall:
  - (1) Employ or retain certified employees as identified in Attachment C that are necessary to carry out the District's responsibilities as specified in this agreement. If a position becomes vacant due to a change in employment status or job responsibilities, the District shall, without delay, take all necessary actions to fill the vacancy;
  - (2) Perform all administrative functions in conformance with Administrative Manual distributed by the Commission;
  - (3) Approve and implement written policies as directed by the Commission or DEP, whichever agency is appropriate, including those related to public access, public comment, conflict of interest, and administration of the programs. The Commission will provide sample policies for the District to consider in their efforts to develop these guidance documents;
  - (4) Provide consultative assistance to the Commission and DEP, and shall make available to the Commission or DEP, all pertinent files and records pertaining to appeals and enforcement cases that the Commission or DEP is handling within the county; and
  - (5) Follow the guidance of the Commission or DEP on proper biosecurity measures when carrying out their activities under the Act 38, Act 49, or Chapter 91 programs, respectively.
- b. Duties and Responsibilities of the Commission Relating to the Act 38 and Act 49 Program. The Commission shall:
  - (1) Provide technical oversight and training to the District on Act 38;

- (2) Provide the Administrative Manual to the District, which shall include hard copies of the required reporting forms, and electronic files containing these standardized forms;
  - (3) Provide financial assistance to the extent funds are available, to the District for execution of the duties and responsibilities described herein, according to the Administrative Manual and the statement of policy titled, "Nutrient Management Funding Program" (25 Pa. Code, Chapter 83, Subchapter E);
  - (4) Be available to the District for consultation on matters relating to the programs, provide program information regularly and timely through Commission staff, including related correspondence or publications to ensure adequate communications concerning program changes;
  - (5) Provide for administrative, technical, and appropriate computer training to the District staff, and be available, as resources allow, to attend District meetings and participate in other circumstances as requested by the District;
  - (6) Ensure an adequate enforcement program is in place to process enforcement actions that the District transmits to the Commission;
  - (7) Provide to the District informational materials developed for the programs to assist the District in informing the interested public;
  - (8) Be responsible to perform those duties required by Act 38 that have not been delegated to the District;
  - (9) Provide technical oversight and training to the District for execution of the duties and responsibilities described in Attachment A for Act 49;
  - (10) Be available to the District for consultation on matters relating to Act 49; and
  - (11) Be responsible to perform enforcement under Act 49 for non-compliant haulers or brokers.
- c. Duties and Responsibilities of the DEP Relating to the Chapter 91 Program. The DEP shall:
- (1) Provide technical oversight and training to the District for execution of the duties and responsibilities described in Attachment A;
  - (2) Provide financial assistance to the District for execution of the duties and responsibilities described in Attachment A;
  - (3) When requested by the District, consult with the District on matters relating to the program;
  - (4) Provide to the District informational materials developed for the program to assist the District in informing the interested public; and
  - (5) Be responsible to perform enforcement under 25 Pa. Code § 91.36 for non-compliant operations.
- d. Project Monitoring.
- (1) The District, Commission staff, and DEP staff, whichever agency is appropriate, shall meet at the request of any of the parties to discuss the progress of work under this agreement and any related issues.

- (2) The District, Commission staff, and DEP staff, whichever agency is appropriate, shall immediately notify the other parties, in writing, of any unusual development or circumstance which could significantly change or otherwise affect the responsibilities outlined in this agreement.
- e. Payment:
- (1) Upon full execution of this agreement, delegation work (a) may, at the discretion of the Commission or DEP, be reimbursed from July 1, 2022 through the date of full execution and (b) shall be paid from the date of full execution through June 30, 2027 (the completion date). All work under this agreement shall be completed no later than the completion date. This agreement can be terminated through the arrangement described in Section 1.g.
  - (2) An application for available funds shall be in writing on forms approved by the Commission. The application shall be received by the deadline established by the Commission. The application shall include a budget outlining anticipated expenses.
  - (3) The approved application and budget for the first agreement year is attached to and made part of this agreement as Attachment D. Applications and budgets for subsequent contract years shall be submitted by the District for the review and approval by the Commission without the need to amend this agreement.
  - (4) Claims for reimbursement and associated quarterly reports must be submitted to the Commission, or its designated agent, within twenty-five (25) days of the end of each quarter. The submission deadlines for quarterly claims and reports are as follows: April 25, July 25, October 25, and January 25. Reimbursement shall be in accordance with the attached budget. All claims must include all appropriate reports required by the Commission and DEP.
  - (5) The Commission will suspend claim processing until receipt of required reports or the completion of all conditions of the agreement.
  - (6) Budget modifications between the categories of an approved budget for up to 10 percent of the total annual budget amount must be approved in writing by the Commission prior to expenses being incurred. All other budget modifications shall require the submission of Attachment D with amendments to the district line items.
- f. Miscellaneous
- (1) Changes – The parties agree to execute minor adjustments to this agreement through a fully executed letter of mutual consent and significant adjustments to this agreement through a fully executed written amendment. Minor adjustments shall include changes to the Required Output Measures in Attachment A. Significant adjustments shall include:
    - A. Changes to the scope of work involving the addition of specific work tasks.
    - B. Changes in payment terms. However, reallocation of budget category dollar amounts to and from other budget categories shall be considered minor adjustments, provided the maximum contract dollar amount payable by the Commission or DEP to the District is not exceeded.
    - C. Increase in the maximum dollar reimbursement amount to be paid by the Commission or DEP to the District.

- (2) This agreement embodies the entire understanding among the parties with respect to the subject matter hereof, and replaces any and all prior understandings, representations, and discussions relating to the subject matter of this agreement.
- (3) The parties will receive any notice, in writing, to the following individuals at the following addresses:

Commission: Executive Secretary  
State Conservation Commission  
2301 N Cameron Street, Room 311  
Harrisburg, Pa 17110

DEP: Director, Chesapeake Bay Program Office  
Department of Environmental Protection  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17105

District: «GranteeActual»  
«Address1»  
«City», «State» «Zip»

(CFDA #66.466)

<b>Appropriations Coding</b>	<b>Amount</b>
«Appcode»	«DollarAmtwithCents1»
«Appcode2»	«DollarAmtwithCents2»
«Appcode3»	«DollarAmtwithCents3»
«Appcode4»	«DollarAmtwithCents4»
«Appcode5»	«DollarAmtwithCents5»

**IN WITNESS WHEREOF, the parties hereto have caused the agreement to be executed on the effective date as defined herein:**

State Conservation Commission

To be obtained electronically \_\_\_\_\_

Executive Secretary  
State Conservation Commission

Date

Department of Environmental Protection

To be obtained electronically \_\_\_\_\_

Secretary of Department of  
Environmental Protection

Date

Conservation District

X \_\_\_\_\_ County \_\_\_\_\_

Conservation District

Vendor Id. No.

Federal ID No.



## Attachment A

To be obtained electronically

Secretary/Treasurer \_\_\_\_\_ Date \_\_\_\_\_  
of the Conservation District

To be obtained electronically

Chairperson \_\_\_\_\_ Date \_\_\_\_\_

of the Conservation District

### State Contractual Approving Authorities

Approved as to legality and form:

To be obtained electronically

Office of Chief Counsel \_\_\_\_\_ Date \_\_\_\_\_

Department of Environmental Protection

Pre-approved Form Number 7C-FA-35.0

Office of General Counsel Date

Pre-approved Form Number 7C-FA-35.0

Office of Attorney General \_\_\_\_\_ Date \_\_\_\_\_

To be obtained electronically

Comptroller Date

**ATTACHMENT A**

**REQUIRED OUTPUT MEASURES**

**PROGRAM EDUCATION AND OUTREACH:**

**A. The conservation district will provide education and outreach on the Nutrient and Odor Management Programs, encourage participation from the public and expect participation from agricultural operations within their county.**

***REQUIRED OUTPUT MEASURES:***

1. The District will coordinate nutrient management education and outreach activities with other relevant cooperating agencies and organizations in the county, such as the United States Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) and Farm Service Agency (FSA), and Pennsylvania State University. This coordination may take place using a more informal one-on-one or small-group process for discussing education and outreach needs and activities with these parties outside of a formal meeting.
2. The District will participate in a minimum of two informational, educational and/or training programs per calendar year (this could take place through local "crop days," "dairy days," etc.). These programs are to provide information on the Act 38 program and incentives provided to support and encourage program participation (both Concentrated Animal Operations ("CAOs") and Volunteer Animal Operations ("VAOs")). The District may cooperate with other appropriate agencies and/or other conservation districts to sponsor programs. Joint programs will count as one program for each sponsoring district.
3. Separately or in cooperation with other agencies, the District will develop a minimum of three informal educational efforts per calendar year (e.g. newsletters, newspaper articles, brochures, digital media (social media), presentations, TV and radio public announcements, etc.). These efforts are to provide appropriate information to individuals that operate agricultural operations ("operations"), certified Nutrient Management Specialists ("NMSs") developing nutrient management plans ("NMPs") for operations within the county, and the general public.
4. The District will provide information to interested persons on the Nutrient and Odor Management Program's (Act 38) financial assistance programs supporting NMP development and implementation and advise agricultural operators ("operators") of alternative funding sources for NMP implementation. If funds become available, the Commission will provide additional information.
5. The District, consistent with the Nutrient Management Program Compliance Strategy, will identify operations which the District believes may be CAOs, and target program outreach and information to these operators. The District will retain a copy of the animal density status for all of the identified operations. The District will assist these operators, when requested, in determining their animal density status. When a district cannot obtain cooperation from potential CAOs or those determined to be CAOs, the District will carry

out the provisions of the Commission's enforcement strategy contained in the Administrative Manual.

- a. The task of identifying potential CAOs shall be a priority of the District. Districts shall develop a specific county procedure on how they plan to identify existing CAOs that have not yet been identified, as well as, new CAOs resulting from new construction, expansion, or loss of land.
  - b. The District shall identify potential CAOs in the non-traditional Act 38 livestock industry activities such as equine, along with the traditional livestock/poultry industry activities, such as dairy, poultry, swine, beef, sheep, goats, etc., on an ongoing basis.
6. The District will provide information on the Odor Management Program to all identified CAOs and Concentrated Animal Feeding Operations ("CAFOs"), on the requirement for an Odor Management Plan for the new or expanded construction of animal housing or manure storage facilities.
  - a. This information may be provided through paragraphs 5(a) and (b), above.
  - b. The District will notify the SCC regional coordinator, in writing (electronic message is acceptable), when they receive a NMP for a new CAO or CAFO and/or when a CAO or CAFO NMP is amended that shows construction of new or expanded animal housing facilities or manure storage facilities.

**B. The conservation district will assist agricultural operators and Nutrient Management Specialists with implementing the provisions of Act 38 Program and corresponding regulations.**

***REQUIRED OUTPUT MEASURES:***

1. The District will provide assistance to agricultural operators within the county and private sector NMSs preparing NMPs for use in the county. This will include providing available preprinted resource materials (e.g. manure management manuals, fact sheets, record keeping forms, etc.) to all persons requesting information to develop a NMP within the county.
2. Districts will provide technical assistance as described in Section E below.
3. The District will assist operators of animal operations in determining if they meet the mandatory provisions of the nutrient management program in Act 38 at 25 Pa. Code, Chapter 83.

**C. The conservation district is to provide the Commission with the appropriate reports to document efforts planned or completed in the Act 38 Program.**

***REQUIRED OUTPUT MEASURES:***

The District will provide the Commission with quarterly reports that list, at a minimum: number of meetings held, number of people trained, number of educational efforts completed, number of CAO and VAO plans received, number of on-site status reviews completed, and number of complaints received. Reports will be submitted on forms or databases supplied by the Commission.

**PROGRAM COMPLIANCE:**

- D. The conservation district shall provide the lead role in evaluating Nutrient Management Plans to ensure they comply with the Nutrient Management regulations.**

***REQUIRED OUTPUT MEASURES:***

1. The District will review and approve/disapprove submitted NMPs, plan amendments, plan updates, and plan transfers in accordance with those procedures outlined in the Nutrient Management regulations, the Administrative Manual, the “Pennsylvania Technical Guide published by the USDA Natural Resource Conservation Service (“Technical Manual,”) and policies and guidelines established by the Commission.
  - a. In relation to reviewing owned and rented lands included in a NMP, the District will perform a site visit to all owned and rented land (crop management units (“CMUs”), included in the plan) to determine if the plan includes all the required information and that the information in the plan adequately represents the operation.
  - b. In relation to NBSs submitted as part of a NMP, the District will, based on their working knowledge of the importing operation, determine if the NBSs adequately represent the importing lands. If the District does not have a working knowledge of the importing operation, nor other agency staff who can provide this information to the District, the District will perform a site visit to assess the importing site to ensure the accuracy of the NBSs.
  - c. If NBSs for importing operations span multiple counties, the county that is reviewing the NMP shall ask for, and the importing counties shall assist with, the review and verification of the NBSs’ accuracy. The county that is reviewing the NMP will take the lead role in the development of technical comments pertaining to the accuracy of the NBSs in accordance with those procedures outlined in paragraph 1, with the importing county providing input.
  - d. The District NMS will coordinate their NMP review effort with District staff involved with the Chapter 102 program, to verify that the operation under review has a current Agricultural Erosion and Sediment Control Plan under 25 Pa. Code § 102.4(a) in accordance with the Act 38 timeframe provided for this requirement.
  - e. Where a NMP is submitted for Act 38 review and approval, and that plan will also be used to meet the NRCS Comprehensive Nutrient Management Plan (“CNMP”) or 590 standard or the DEP CAFO program requirements, the District will notify the other relevant agencies of their review and coordinate their review with that agency.
  - f. Where a NMP for an agricultural operation identified as a CAFO is received by the District, the District shall submit the required Pennsylvania Bulletin notices to DEP, following the program guidance contained in the Administrative Manual. The District will communicate and cooperate with the DEP in the review of those plans.
2. NMPs and plan amendments developed by the District’s personnel will be reviewed by a Publicly Certified Nutrient Management Specialist employed by another district. Two or more districts may enter into a reciprocal cooperative agreement whereby they will each review and comment on the other’s plans. The Board of the county where the operation is located will act on the plan for approval or disapproval. Alternatively, the Commission may assist by reviewing plans for those rare instances where the district developing the plan cannot obtain plan review assistance from another district.
3. The District will review all information submitted to implement approved plans, and to assess compliance with approved plans and the regulations. The District shall perform

on-site visits at those operations thought to be out of compliance with their approved plan or the regulations based on the review of these submitted materials. Where this visit indicates that the operation is out of compliance with the approved plan or regulations, the District shall attempt to get the operator to voluntarily comply in accordance with the Administrative Manual.

4. The District Board will, based on the District Specialist's recommendation, and in accordance with the Administrative Manual, submit to the Pennsylvania Department of Agriculture (PDA), the names of those NMSs meeting the criteria established for NMS certification revocation. These criteria are contained in the Nutrient Management Certification regulations at 7 Pa. Code Chapter 130b. The District will also submit to the PDA any supporting documentation that verifies the basis for submitting these names.
5. The District will provide the Commission with quarterly reports that summarize those activities performed during the report period. Reports will be submitted on forms or databases supplied by the Commission and according to the schedule approved by the Commission.

**E. The conservation district will provide technical assistance in accordance with Commission guidelines and consistent with the Pennsylvania Technical Guide published by the USDA Natural Resource Conservation Service.**

***REQUIRED OUTPUT MEASURES:***

1. In accordance with that section of the Administrative Manual regarding Act 38 NMP development for CAOs and CAFOs and Act 38 NMP development for VAOs, the District will, to the extent possible, provide technical direction or assistance to private sector specialists and agricultural operators in the development of NMPs or portions of NMPs.
  - a. The Administrative Manual section labeled Act 38 NMP development for CAOs and CAFOs and Act 38 NMP development for VAOs, describes the policy concerning the District's limited involvement in writing NMPs, and the Commission's strong direction to districts to assist operators, their private sector specialists, as well as individually certified agriculture operators in their development of those portions of the plan which the District has expertise. This may include assisting others with developing the Stormwater or Manure Management sections of plans, when requested.

Full plan development by District staff (where the District staff is the person listed in the plan as the planner) is considered a low priority, except for certification purposes. Plan development activities may be provided if the District Board of Directors approves, resources permit and when all other delegated activities, including assistance with plan implementation, are satisfied. Districts are encouraged to enact a technical assistance policy consistent with the duties described in this section.

- b. The District will complete an animal equivalent unit (“AEU”)/acre calculation sheet for any individual requesting that the District write their NMP. This calculation sheet will be signed by the agricultural operator and retained at the District office to document the CAO status of those individuals requesting plan writing assistance from the District.
    - c. The District will provide a letter, within 10 business days, to all applicable agricultural operators who request the District to write their NMP, indicating that the District cannot author NMPs unless extenuating circumstances exist, and recommends utilizing the services of a private sector specialist or becoming certified to develop their own plan. A listing of available certified commercial NMSs should be provided with this correspondence.
  2. To assist in NMP implementation, the District will provide or facilitate, as resources allow, general technical assistance to program participants with approved NMPs. Technical assistance may include inventory and evaluation; developing or assisting in the development of designs; cost estimates; construction monitoring; and certification of the proposed project(s). District technical assistance must be consistent with authority provided under the USDA NRCS Job Approval Rating System or a Pennsylvania professional engineering certification. Where District staff do not hold appropriate authority for a particular project, the District may assist the appropriate agency staff but may not provide final approval for certification of the project.
  3. The District will provide technical assistance, as resources allow, consistent with paragraph 2, above for the Agriculture Linked Investment Program (AgriLink) and the Nutrient Management Plan Implementation Grant Program where funding for implementation of financial assistance programs is available to the Commission. Additional details will be provided if funding becomes available.
- F. The conservation district will perform status reviews on Concentrated Animal Operations, Concentrated Animal Feeding Operations, and Volunteer Animal Operations with approved Nutrient Management Plans to assess plan implementation efforts.**

***REQUIRED OUTPUT MEASURES:***

1. The District will assess NMP implementation by performing annual on-site status reviews on all CAOs and CAFOs with approved plans. All CAOs and CAFOs are to be visited each year according to a formalized process for status reviews established by the Commission. Districts unable to meet this delegation requirement must contact the Commission to discuss a possible alternative schedule.
2. For those operations that are CAFOs, districts are encouraged to coordinate joint inspections with DEP to efficiently utilize program resources.
3. The District shall assist CAOs and CAFOs determined to be out of compliance based on an on-site status review, with the implementation of Best Management Practices (“BMPs”) identified in their approved plan and to comply with the Nutrient Management regulations. Operations that fail to come into compliance under the District’s efforts shall be referred to the Commission for further action, as directed in the Administrative Manual.

4. The District shall perform status reviews on VAOs (non-CAO, non-CAFO) with approved NMPs at least once every 3 years. These site visits should be structured as informal education visits to educate the operator on the advantages of implementing the plan.
  5. As part of the status review for an operation the District will assess an operator's implementation of the Operation and Maintenance Plan ("OMP") for the BMPs included in the approved NMP. Additionally, the District will assess an operator's operation and maintenance on existing BMPs that were not contained in the implementation schedule of the NMP.
- G. The conservation district will investigate complaints and other instances of non-compliance submitted to the District as they relate to the provisions of the Nutrient Management regulations, and attempt to bring the operation into compliance.**

***REQUIRED OUTPUT MEASURES:***

1. Within 7 business days of receipt of a complaint, the District will either refer the complaint to the appropriate agency if it is outside of this delegation, or if it is a complaint dealing with Act 38, the District will schedule and make a site visit to assess the issue in cooperation with other appropriate agencies or organizations. Complaints and site visits will be documented on forms provided by the Commission, with an account of the visit conveyed back to the complainant. The complaint and the site visit forms shall be retained in the District files.
  2. The District will work with those operators found to be in violation of the Nutrient Management regulations to obtain voluntary compliance with these provisions in a timely manner, as specified in the Administrative Manual: SCC Compliance and Enforcement Strategy. The District shall record any contact with these operators to document attempts to bring the areas of the operation into compliance.
    - a. For sites involving continued violations, the District will use the criteria established by the Commission for documentation and preparation of enforcement actions. If the District is not able to achieve compliance, it should report those instances to the Commission for further action. All actions, reports and other forms of documentation including personal observations may be used as evidence during any subsequent enforcement actions by the Commission.
    - b. The District will provide the Commission with quarterly reports detailing accomplishments under this agreement that list at a minimum: number of complaints, and the number and status of complaint related site visits. Reports will be submitted on forms or databases supplied by the Commission.
    - c. The District will conduct follow up activities consistent with the Commission's compliance and enforcement strategies on operations that the District believes to be CAOs. Activities will include ensuring that the CAO status of the operation has been determined, assisting the operator with program requirements, and referring non-compliant CAOs to the Commission for enforcement action.
    - d. The District will refer all odor management complaints to the Commission, except for an odor management complaint arising from the spreading of manure.
- H. The conservation district will be the lead agency in reviewing proposed Nutrient Management Plan implementation extensions.**

**REQUIRED OUTPUT MEASURES:**

1. The District will acknowledge receipt of proposed extensions to the implementation schedule of approved NMPs through written correspondence to the operator, within 5 business days of receipt.
  2. The District will evaluate the proposed extensions and determine if they are acceptable based on the Nutrient Management regulations and guidance outlined in the Administrative Manual.
  3. The District will correspond with the operator proposing the extension, indicating the findings of the evaluation.
  4. The District will coordinate with or consult with DEP if the operation is a CAFO or coordinate with or consult with the appropriate agency if an enforcement action has been taken or is being considered.
- I. The conservation district will review and approve/disapprove waivers to the manure storage setback requirements in the Nutrient Management regulations.

**REQUIRED OUTPUT MEASURES:**

1. The District will acknowledge receipt of proposed waivers through written correspondence to the operator requesting the waiver, within 5 business days of receipt of the request.
  2. The District will file a copy of the proposed waiver with the operator's approved plan.
  3. The District will provide an on-site evaluation of the proposed waiver, within 20 business days of receipt of the request, utilizing the general criteria outlined in the Administrative Manual.
  4. The District will, based on the above evaluation and the guidance provided by the Commission, approve/disapprove the proposed waiver, within 90 calendar days of receipt of the request.
  5. The District will inform the operator requesting the waiver, in writing, of its decision to approve/disapprove the request, within 95 calendar days of receipt of the request.
- J. **The conservation district will be involved in the monitoring of Nutrient Management Plan implementation in those situations where the emergency criteria are to be used. The district will administer the processing of plan amendments due to unforeseen circumstances.**

**REQUIRED OUTPUT MEASURES:**

1. The District will cooperate with the PDA to assure that those operations subject to Act 38 and quarantined by PDA due to a contagious disease, follow those emergency criteria outlined in the Nutrient Management regulations.
  2. The District will process and file all NMP amendments developed due to unforeseen circumstances in accordance with the Administrative Manual.
- K. The conservation district will assist the Commission in the administration of financial assistance programs developed by the Commission to support Nutrient Management Plan development and implementation where funding for implementation of financial assistance programs is available to the Commission.



**REQUIRED OUTPUT MEASURES:**

When funding for NMP development and implementation is available to the Commission, additional details will be provided to the District for program implementation and administration.

- L. The conservation district will assist the Commission in the implementation of the Act 49 Commercial Manure Hauler and Broker Certification program.

**REQUIRED OUTPUT MEASURES:**

1. The District will administer the Level 2 Commercial Manure Hauler test to those individuals requesting to take the test at their location. The District will only be expected to provide this service as the request conforms to their District office hours, and only if the District has staff and room availability to provide this service. All testing materials will be provided by the SCC/PDA.
2. When performing periodic status reviews, or site visits relating to complaints, the District will determine from the operator or from records on site if commercial manure haulers or brokers are used at the operation. If commercial haulers or brokers are used, the District will determine based on Act 49 program certification listings, whether the commercial haulers or brokers used are properly certified under Act 49.
  - a. Act 38 operations determined by the District to not be following this requirement will be addressed by the District in accordance with the guidance outlined in the Administrative Manual.
  - b. Where the District finds a commercial manure hauler or broker who is found to be in violation of certification requirements established under Act 49, the District will contact the SCC/PDA to address the issue.
  - c. The District will submit to the SCC/PDA any supporting documentation that verifies the basis for identifying a commercial manure hauler or broker under paragraph b, above.
3. The District will review at a minimum 10% of NBSs that are submitted to the District consistent with the provisions of Act 49. The District should only be reviewing NBSs submitted for the application of manure imported into their county and not NBSs for the export of manure out of their county.
  - a. The District will work with the manure broker that authored the NBS to correct any identified deficiencies. Additional information regarding these procedures is found in the Administrative Manual.
  - b. Where the District identifies a commercial manure broker who demonstrates activities inconsistent with the provisions of Act 49 (i.e. lack of submission of NBS where appropriate; continued deficiencies in the content of submitted NBS) the District will contact the SCC/PDA to address the issue. The District will submit to the SCC/PDA any supporting documentation that verifies the basis for identifying these individuals.

4. The District will provide the Commission with quarterly reports that summarize the NBSs that were received from manure brokers and the activities related to receipt and review performed by the District during the reporting period. Reports will be submitted on forms or databases supplied by the Commission and according to the schedule approved by the Commission.
- M.** The conservation district will assist the Pennsylvania Department of Environmental Protection (DEP) in the implementation of the Manure Management Program under 25 Pa. Code § 91.36 and The Clean Streams Law.

***REQUIRED OUTPUT MEASURES:***

1. Overall program development efforts – The District will develop and adopt a strategy to carry out its duties relating to its Manure Management Program outreach, education, training, planning compliance and, if applicable, agricultural operation inspection, which covers the following:
  - a. Identification of assistance efforts the District can provide to operators. Assistance efforts should include but, are not limited to Manure Management Plan (MMP) development, technical assistance for plan implementation and verification of accuracy of MMPs.
  - b. Identification and prioritization of types of agricultural operations the District will support with MMP development and implementation assistance efforts and services.
  - c. A written and District approved fee schedule that will be charged for 25 Pa. Code § 91.36 (Section 91.36) services performed by the District, which are beyond the required minimum outreach, education or training output measures.
  - d. Coordination of Section 91.36 Manure Management Program and Act 38 Nutrient Management Program outreach and education efforts described in paragraphs A.1 through A.3 as they pertain to overall Manure and Nutrient Management Program compliance strategies in the county.
  - e. Complaint response and referral activities, consistent with guidance provided by the DEP.
  - f. Identification of procedures to inspect agricultural operations inspection, if performed by the District, that are consistent with guidelines provide by the DEP.
2. Outreach – The District will take the lead role in the coordination of outreach activities providing general awareness on Section 91.36 requirements to the agricultural community and the general public.
  - a. Activities must include a minimum of 3 outreach activities per calendar year (e.g. farmer meetings, displays at local events, publication mailings, digital media (social media) etc.).
  - b. Activities will include distribution of materials developed by the District, the DEP or other cooperating agencies or organizations.
3. Education – The District will take the lead role in the coordination of education activities to provide appropriate information pertaining to manure management planning principles and compliance with the requirements under Section 91.36 to the agriculture community.
  - a. Activities must include a minimum of 1 education or training activities per calendar year (e.g. farmer meetings or workshops etc.).

- b. Activities will include distribution of materials developed by the District, the DEP or other cooperating agencies or organizations.
- 4. Training – The District will facilitate workshops for agricultural operations in the development and the implementation of MMPs separately or in cooperation with other districts or agencies.
  - a. The District will conduct a minimum of 1 technical training program per calendar year for operators to guide operators through the development of a MMP for the operator’s operation. Trainings could include electronic/virtual platforms or include one-on-one training opportunities to assist operators in plan development.
  - b. The District will conduct a minimum of 1 technical training program targeting consultants assisting operators in the development of a MMPs or providing planning services to operators for MMP development. The target audience of the training program may include certified NMSs, manure haulers and brokers, and any individual offering manure management planning assistance, such as 4-H educators or students, FFA educators or students, private crop or pesticide consultations, etc., regardless of certification status. The implementation of this activity may be coordinated with technical trainings for operators.
- 5. Planning and implementation assistance.
  - a. The District will provide technical assistance to operators and their consultants in developing MMPs consistent with priorities established in the District’s program implementation strategy.
  - b. The District will provide technical assistance to operators and their consultants in implementing their MMP consistent with priorities established in the District’s program implementation strategy, as resources permit.
  - c. The District will write a minimum of 10 MMPs for operators within the county. These written MMPs must be entered into PracticeKeeper. This required output measure is waived if the District chooses to perform “status reviews” under M.6 below. If a district has accepted Chesapeake Bay Technician Funding, this requirement is being met under that contract
  - d. The District may provide full plan development for operators consistent with the District’s Manure Management Program strategy and priorities, as resources permit.
  - e. The District may perform quality assurance of the accuracy of MMPs and the implementation of plans, when District verification is requested by an operator consistent with the District’s Manure Management Program strategy and priorities, as resources permit.
- 6. Farm status review activities:
  - a. The District shall perform status reviews of agricultural operations that use or produce manure to assess compliance with 25 Pa. Code § 91.36.

- b. The District will perform status reviews on a minimum of 10 agricultural operations (1 Fulltime Equivalent Funding or more) or 5 agricultural operations (less than 1 Fulltime Equivalent Funding). Such status reviews will be conducted consistent with guidelines or Standard Operating Procedures (SOPs) provided by DEP. This required output measure is waived if the District chooses to write MMPs under M.5 above. If a district has accepted Chesapeake Bay Technician Funding, this requirement is being met under that contract.

7. Complaint response and referral

- a. Within 7 business days of receipt of a complaint, the District will either refer the complaint to the appropriate agency if it is outside of this delegation, or if it is a complaint dealing with Section 91.36 activities, the District will schedule and make a site visit to assess the issue in cooperation with other appropriate agencies or organizations. Complaints and site visits will be documented on forms provided by the DEP, with an account of the visit conveyed back to the complainant. The complaint and the site visit forms shall be retained in the District files.
  - b. The District will work with agricultural operators found to be in violation of 25 Pa. Code Section 91.36 to obtain compliance with its provisions as specified in guidance provided by the DEP. The District shall record any contact with agricultural operators to document attempts to bring the operation into compliance.
  - c. Agricultural operations involving continued violations and where compliance cannot be obtained by the District are to be reported to the DEP for further action. The District will use the criteria established by the DEP for documentation and preparation of enforcement actions. All actions, reports and other forms of documentation including personal observations may be used as evidence during any subsequent enforcement actions by the DEP.
8. The District will provide the DEP with quarterly reports detailing accomplishments under this agreement that includes, outreach and educational efforts completed, trainings and workshop provided to operators and consultants, technical assistance activities provided to operators, manure management plans written, status reviews performed, the number of complaints, and the number and status of complaint related site visits. Reports will be submitted on forms or databases (PracticeKeeper) supplied by the Department.
9. Compliance inspections - The District may perform inspections (and additional status reviews above the requirement in M.5 above) of any agricultural operation to assess compliance with Section 91.36 and review MMP implementation efforts.
- a. The District may assess compliance with Chapter 91 and the MMP requirements by performing on-site inspections of any non-CAO, non-CAFO agricultural operation.
  - b. The District may assist operations determined to be out of compliance based on an inspection or implementation of the BMPs required for or identified in their MMP. The District shall follow its agricultural complaint response policy and the guidelines or SOPs provided by DEP for operations that fail to come into compliance through the District's efforts.
  - c. As part of the District's inspection, the District may assess an operator's implementation of the OMP for the BMPs included in the MMP.

10. Recordkeeping – The District will retain as separate files: the quarterly reports required by the DEP; the District’s Manure Management Program outreach, education and training, and compliance implementation strategy, including the date when this strategy was adopted; the District’s approved fee schedule, including the date when this fee schedule was adopted; and MMP development and verification information, as required by the DEP.

**ATTACHMENT B**  
**Commonwealth Terms and Conditions**

**1. COMMONWEALTH HELD HARMLESS**

- a. The Contractor/Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor/Grantee and its employees and agents under this Contract/Grant, provided the Commonwealth gives Contractor/Grantee prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor/Grantee, the Commonwealth will cooperate with all reasonable requests of Contractor/Grantee made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor/Grantee to control the defense and any related settlement negotiations.

**2. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

The Grantee agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws, against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.
2. The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
3. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the grant agreement, subgrant agreement, contract or subcontract.
4. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and

to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

5. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement for employees with an established work site.
6. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
7. The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.
8. The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
9. The Granter's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
10. The commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency

may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

**3. CONTRACTOR INTEGRITY PROVISIONS (For the purpose of these Contractor Integrity Provisions, the term Contractor is defined to include GRANTEE and the term Contract is defined to include GRANT AGREEMENT.)**

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

**a. DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- 1) **"Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- 2) **"Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- 3) **"Contractor"** means the individual or entity, that has entered into this contract with the Commonwealth.
- 4) **"Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- 5) **"Financial Interest"** means either:
  - a) Ownership of more than a five percent interest in any business; or
  - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- 6) **"Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [\*Governor's Code of Conduct, Executive Order 1980-18\*](#), the *4 Pa. Code §7.153(b)*, shall apply.
- 7) **"Non-bid Basis"** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

**b.** In furtherance of this policy, Contractor agrees to the following:

- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other



requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

- 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- 4) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - c) had any business license or professional license suspended or revoked;
  - d) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  - e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if

at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act* (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code* (25 P.S. §3260a).
- 7) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 9) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third-party beneficiaries shall be created thereby.

- 10) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of anyone shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

#### **4. CONTRACTOR RESPONSIBILITY PROVISIONS**

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term Contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary

fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- f. The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

## **5. AMERICANS WITH DISABILITIES ACT**

**For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant the Commonwealth of Pennsylvania (Commonwealth).**

**During the term of this contract, the Contractor agrees as follows:**

- a. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that no individual with a disability, shall on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting this contract, the Contractor agrees to comply with the “*General Prohibitions Against Discrimination*,” 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Contractor’s failure to comply with the provisions of paragraph a.

## **6. APPLICABLE LAW**

This Contract/Grant Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor/Grantee consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor/Grantee agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

## **7. RIGHT TO KNOW LAW**

**For the purpose of these Right-to-Know Law provisions, the term Contractor is defined to include GRANTEE, SUBGRANTEE and/or LESSOR and the term Contract is defined to include GRANT AGREEMENT and/or LEASE AGREEMENT.**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided

in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

## 8. OFFSET PROVISION

The Contractor/Grantee agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state tax liability or other obligation of the Contractor/Grantee or its subsidiaries to the Commonwealth against any payments/funds due the Contractor/Grantee under any contract/grant agreement with the Commonwealth.

## 9. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS

- a. The Commonwealth will make payments to the recipient through ACH. Within 10 days of the grant award, the grantee must submit or must have already established its ACH information in the Commonwealth's Master Database. The grantee will also be able to enroll to receive remittance information via electronic addenda and email (e-Remittance). ACH and e-Remittance information is available at <https://www.budget.pa.gov/Services/ForVendors/Pages/Direct-Deposit-and-e-Remittance.aspx>.
- b. The recipient must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the recipient to properly apply the state agency's payment to the respective invoice or program.
- c. It is the responsibility of the recipient to ensure that the ACH information contained in the Commonwealth's Master Database is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

## 10. ENHANCED MINIMUM WAGE PROVISIONS (July 2022)

- a. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - i. exempt from the minimum wage under the Minimum Wage Act of 1968;
  - ii. covered by a collective bargaining agreement;
  - iii. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - iv. required to be paid a higher wage under any state or local policy or ordinance.

- d. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- e. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- f. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

## ATTACHMENT C

Staff resources of the county conservation district to be committed to completion of all Nutrient Management and Manure Management program requirements and responsibilities specified in the delegation agreement executed \_\_\_\_\_, 2\_\_\_\_\_, between the \_\_\_\_\_ County Conservation District and the Pennsylvania State Conservation Commission and the Pennsylvania Department of Environmental Protection.

A. Name: \_\_\_\_\_ Title: \_\_\_\_\_

1. Education: \_\_\_\_\_ Year: \_\_\_\_\_

2. List License And/or Certification: \_\_\_\_\_

3 License/Certification Expiration Date: \_\_\_\_\_

4. Years In Current Position: \_\_\_\_\_

B. Listing of Act 38/Chapter 91 Work Assignments in Percentage (%) Of Total Employee Work Time:

1. Administration (General) : \_\_\_\_\_ %

2. Education (To Others) : \_\_\_\_\_ %

3. Training (By Others) : \_\_\_\_\_ %

4. Technical Assistance : \_\_\_\_\_ %

5. Review Of Plans : \_\_\_\_\_ %

6. Approval Of Plans : \_\_\_\_\_ %

7. Program Compliance & Inspections: \_\_\_\_\_ %

C. **Other: List Any Other Pertinent Information, Work Experience and Training On Separate Sheets of Paper And Attach To This Sheet:**



ATTACHMENT D

Date: \_\_\_\_\_

**NUTRIENT MANAGEMENT / MANURE MANAGEMENT PROGRAM**

**DELEGATION AGREEMENT**

**PROPOSAL FORM**

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**CONSERVATION DISTRICT**

I. Delegation Option:

\_\_\_\_\_ Single District

or

\_\_\_\_\_ Multi-district

(List Districts Involved)

\_\_\_\_\_ Host District

\_\_\_\_\_ Associate District

\_\_\_\_\_ Associate District

\_\_\_\_\_ Associate District

II. Time Period Covered by the Proposal: July 1, 2022 to June 30, 2023

### III. Technical Staff Working for the Nutrient and Manure Management Programs

- A. \_\_\_\_\_ Number of Conservation District Staff providing all their time to these programs
- B. \_\_\_\_\_ Number of Conservation District Staff providing a portion of their time to these programs
- C. \_\_\_\_\_ Number of the above staff currently certified under the Act 38 Program
- D. \_\_\_\_\_ Total hours/week doing Nutrient Management/ Manure Management Program work (total for all staff above)
- E. \_\_\_\_\_ Total hours/week the staff included in "A" and "B" above is doing other work  
(List other work being carried out by these staff)

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- F. Please complete the following table for each relevant staff person including the name of the staff person, **total salary and benefits cost for the position**, name of the program funding source (list all sources, including Act 38, ACT, county funding, district fees, Chesapeake Bay Program, NRCS cooperative agreements, etc.) and the program funding amount.

Staff Person Name	Total Salary and Benefits Cost	Program or Funding Source Name	Salary and Benefits Amount Funded

		(use multiple lines or sheets if necessary)	

(Use additional page(s) if necessary)

#### IV. Narrative Description of the Proposal

(Add or modify the description if necessary)

We agree to carry out the responsibilities relating to the Nutrient Management and Manure Management programs and regulations in accordance with the conditions and duties as described in the delegation agreement and appropriate guidelines in the “Pennsylvania Nutrient Management and Manure Management Manual Program, Act 38 and Chapter 91 Administrative Manual”, in accordance with conditions and duties described in the delegation agreement and guidance provided by the State Conservation Commission and the Department of Environmental Protection. Claims for reimbursement will be for the performance of the duties listed in Attachment A in accordance with the approved budget.

#### V. Budget Proposal

(Please complete the attached budget sheets)

BUDGET WORKSHEET

FOR

July 1, 2022 - June 30, 2023

DISTRICT \_\_\_\_\_

Salaries \$ \_\_\_\_\_

Benefits \$ \_\_\_\_\_

Travel Costs \$ \_\_\_\_\_

Equipment Costs \$ \_\_\_\_\_

Administrative Costs

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

Administrative Subtotal

\$ \_\_\_\_\_

Attachment D

Other/Miscellaneous (list budget items from approved categories)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Budget Total (transfer this total figure to the Budget Sheet page) \$ \_\_\_\_\_**

NUTRIENT MANAGEMENT (ACT 38) and MANURE MANAGEMENT (25 Pa. Code § 91.36) PROGRAM DELEGATION AGREEMENT BUDGET SHEET

FOR

Fiscal Year: July 1, 2022 - June 30, 2023

CONSERVATION DISTRICT: «GranteeActual»

Delegation Agreement Budget Request

«ContractAmtWithCents»

## Appendix III – Delegation Agreement

### ATTACHMENT E

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### FEDERAL REQUIREMENTS

If this Agreement is funded in whole or in part with funds from the Federal Government, or by non-Federal funds used to match a Federal grant, the following provisions apply:

1. All work under this Agreement shall be performed in accordance with applicable statutes, rules and regulations of the Federal Government. All applicable Federal statutes and provisions of the Code of Federal Regulations (CFR) in effect on the date of execution of this Agreement are an integral part of this Agreement.
2. All applicable contract provisions specified by the Federal Government are an integral part of this Agreement.
3. If this Agreement is funded in whole or in part by a grant from the United States Environmental Protection Agency (EPA), all applicable provisions of 40 CFR Parts 31 and 35 (Subpart O), in effect on the date of the Assistance Award for this project, are an integral part of this Agreement. Further, Contractor shall comply with the provisions pertaining to conflict of interest set forth at 40 CFR §35.6550(b)(2)(ii).
4. Rights to Inventions Made Under a Contract or Agreement – Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the Federal Grantor Agency. Further this Agreement is subject to Federal Grantor Agency requirements and regulations pertaining to reporting and patent rights if the Agreement involves research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under this Agreement, as well as Federal Grantor Agency requirements and regulations pertaining to copyrights and rights in data.

## Appendix III – Delegation Agreement

5. Equal Employment Opportunity – All contracts shall contain a provision requiring compliance with Executive Order 11246, “Equal Employment Opportunity,” as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
6. Audit/Compliance Review Requirements

### Audit Requirements

The Contractor must comply with all Federal and State audit requirements including: the Single Audit Act Amendments of 1996; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (“Uniform Guidance at 2 CFR Part 200”); and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the Federal government.

If the Contractor is a local government or non-profit organization and expends total Federal awards of \$500,000 or more during its fiscal year, received either directly from the Federal Government or indirectly from a recipient of Federal funds, the Contractor is required to have an audit made in accordance with the provisions of Uniform Guidance at 2 CFR Part 200.

If the Contractor expends total Federal awards of less than \$500,000 during its fiscal year, it is exempt from these audit requirements, but is required to maintain auditable records of Federal awards and any State funds which supplement such awards, and to provide access to such records by Federal and State agencies or their designees.

### Submission of Audit Information to the Commonwealth

The Contractor shall submit copies of the audit report package to the Commonwealth, which shall include:

1. Data Collection Form.



## Appendix III – Delegation Agreement

2. Financial statements and schedule of expenditures of Federal awards.
3. Auditor's reports on the financial statements and schedule of expenditures of Federal awards, internal control, and compliance as well as a schedule of findings and questioned costs.
4. Summary schedule of prior audit findings.
5. Corrective action plan.
6. Management letter comments.

The Contractor shall submit, electronically, audit information to the Pennsylvania Office of the Budget, Bureau of Accounting and Financial Management as described on the Office of the Budget's webpage for Single Audit Submissions: <https://www.budget.pa.gov/Services/ForGranteesAndSubrecipients/Pages/SingleAuditSubmissions.aspx>.

In instances where a Federal program-specific audit guide is applicable, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and Uniform Guidance at 2 CFR Part 200.

### General Audit Provisions

The Contractor is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of Federal awards.

The Commonwealth reserves the right for Federal and State agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or Federal agencies. Any such additional audit work will rely on work already performed by the Contractor's auditor, and the costs for any additional work performed by the Federal or State agencies will be borne by those agencies at no additional expense to the Contractor.

Audit documentation and audit reports must be retained by the Contractor's auditor for a minimum of five (5) years from the date of issuance of the audit report,

### Appendix III – Delegation Agreement

unless the Contractor's auditor is notified in writing by the Commonwealth or the cognizant or oversight Federal agency to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the Federal funding agency, or the Government Accountability Office.

7. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*). Violations shall be reported to the Regional Office of the EPA.
8. Contractor shall comply with mandatory standards and policies relating to energy efficiency in compliance with the U.S. Energy Policy and Conservation Act (Pub. L. 94-163).
9. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) – Where applicable, all contracts awarded by recipients in excess of \$100,000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
10. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and subgrants in excess of \$100,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by

### Appendix III – Delegation Agreement

any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal Grantor Agency.

11. Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) – When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area.. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal Grantor Agency.
12. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
13. Debarment and Suspension (Executive Orders 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

### Appendix III – Delegation Agreement

14. This commitment is contingent upon funds being appropriated by the legislature for each succeeding fiscal year and Federal funds being provided to the Commonwealth for the contract purpose.

15. Federal Funding Accountability and Transparency Act (FFATA or Transparency Act)

For all federally funded grants that DEP issues (except ARRA grants).

16. Registration and Identification Information

Grantee must maintain current registration in the System for Award Management ([www.sam.gov](http://www.sam.gov)) at all times during which it has active federal awards funded pursuant to this agreement. A Unique Entity Identifier (UEI) number is one of the requirements for registration in the System for Award Management.

Grantee must provide its assigned UEI number to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

17. Primary Location

Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, then Grantee must list the location where the largest amount of the grant award is to be expended pursuant to this grant agreement.

Grantee must provide this information to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

## Appendix III – Delegation Agreement

### 18. Compensation of Officers

Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if—

(i) the entity in the preceding fiscal year received—

(I) 80 percent or more of its annual gross revenues in Federal awards; and

(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

If the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee.

Grantee must provide information responding to this question along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides the information responding to this question.

# Model Inter-District Reciprocal Agreement for Reciprocal Review of Nutrient Management Plans

## Appendix III

MEMORANDUM OF UNDERSTANDING  
BETWEEN

\_\_\_\_\_ County Conservation District  
and  
\_\_\_\_\_ County Conservation District

This Memorandum of Understanding is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for the purpose of setting forth the mutual responsibilities and understandings of the parties with regard to the review of certain nutrient management plans.

*Whereas*, the act of July 6, 2005 (P.L. 112, No.38), 3 Pa.C.S.A. §§ 501-522, related to nutrient and odor management (the "Act"), and the regulations promulgated thereunder by the State Conservation Commission at 25 *Pa. Code* Chapter 83, relating to nutrient and odor management, establish a comprehensive nutrient management program for the Commonwealth of Pennsylvania; and

*Whereas*, the act of December 19, 1984 (P.L. 1125, No.221), 3 P.S. §§849-864, known as the Conservation District law, authorizes the State Conservation Commission ("Commission") to approve and coordinate the programs of the conservation districts under §852(c); and

*Whereas*, Section 508 of the Act, 3 Pa. C.S.A. §508 provides for certification of individuals who have demonstrated the competence necessary to develop nutrient management plans; and

*Whereas*, county conservation districts are authorized to assist farmers by employing Nutrient Management Specialists certified in accordance with Section 508 of the Act to develop nutrient management plans; and

*Whereas*, Section 506 of the Act, 3 Pa C.S.A. § 506, requires that the individual who develops a nutrient management plan and the individual who reviews a nutrient management plan shall each be certified Nutrient Management Specialists qualified under Section 508 of the Act; and

*Whereas*, the Commission has determined that a nutrient management plan that is developed by a certified Nutrient Management Specialist as staff of a conservation district shall be reviewed by certified Nutrient Management Specialist as staff for another conservation district or Commission; and

*Whereas*, the Commission has authorized conservation districts to enter into Memoranda of Understanding with other conservation districts for reciprocal review and approval of nutrient management plans that are developed by certified Nutrient Management Specialist of a conservation district, so long as the substance of the Memorandum of Understanding conforms with the policies of the Commission and the Model Inter-district Reciprocal Agreements adopted by the Commission; and

Now therefore, \_\_\_\_\_ County Conservation District ("\_\_\_\_\_") and \_\_\_\_\_ County Conservation District ("\_\_\_\_\_") desire to enter into an inter-district reciprocal agreement for the review of nutrient management plans;

1. Plan Development. Nutrient management plans developed by the staff of a district shall only be developed by, or under the immediate technical supervision of a certified Nutrient Management Specialist employed by that district or SCC. The Nutrient Management Specialist developing the plan shall certify that the plan is in accordance with the requirements of the Nutrient and Odor Management Act and the regulations there under at 25 Pa. Code Chapter 83. For purposes of this agreement, the district where the farm is located shall be referred to as the "originating district," and the district performing the review shall be referred to as the "reviewing district."

2. Plan Submission. The originating district shall notify the reviewing district that a nutrient management plan is under development and that review is requested under this Memorandum. Adequate advance notice shall be provided, but in no case shall advance notice of less than 5 days be provided. Drafts of the plan may be provided informally to the reviewing district and proposed best management practices maybe discussed between the originating district and reviewing district staff as may be desirable. Staff from the reviewing district may accompany originating district staff on site visits during plan development, as desirable in the opinion of the originating district. The originating district shall formally submit the nutrient management plan to the reviewing district after it has been signed by the agricultural operator for whom it was developed.

3. Review Period. The 90-day review period pursuant Section 506 of the Act shall commence at the time of the reviewing district receives the plan and deems the submission administratively complete. The reviewing district shall complete its review and provide the originating district with appropriate comments within 30 days of receiving the plan. In no case shall the period of review by the reviewing district extend more than 60 days from the date the plan is submitted. *[Note: It is recommended that the originating district reserve sufficient time for final/ action by its Directors within the 90-day period allowed by Section 506 of the Act.]*

4. Review Procedures. The reviewing district shall assure that the staff persons performing the review are certified in accordance with Section 508 of the Act and properly qualified to perform the review. The certified individual responsible for the review shall ascertain whether or not the plan is in accordance with the Nutrient and Odor Management Act and the Nutrient Management Regulations. During the review, the certified specialist for the reviewing district is encouraged to communicate freely with the certified



specialist who developed the plan and may request such additional information from the originating district as is needed. Additional information necessary directly from the agricultural operator should be requested through the originating district, if possible.

5. Site Visits During: Review. The review of a plan shall include a site visit to the agricultural operation by the reviewer, in order to ensure that the proposed best management practices will address all problem areas on the operation. If the reviewer is familiar with the current daily operations at the site, the site visit may be waved if it is not necessary in the opinion of the reviewer. Site visits will be arranged with the originating district.

6. Review Committee. The reviewing district shall provide the originating district with timely and appropriate comments upon which the originating district's Board of Directors may base an informed decision to approve, modify or disapprove the nutrient management plan.

7. Plan Approval Modification or Denial. The Board of Directors of the originating district shall formally approve, modify or disapprove the plan, pursuant to Section 506 of the Act. The Directors of the originating district shall duly consider the review comments submitted by the reviewing district, and shall formulate a final decision of the originating county in accordance with the full discretion allowed by law. The Directors of the originating district may approve, modify or disapprove the plan as is appropriate in the opinion of the Directors and in accordance with the Act and the regulations promulgated there under.

8. Cost. Each party to this Memorandum shall bear all costs for salary, overhead, travel, incidental or any other expenses incurred by that party.

9. Appeals. In the event that an aggrieved person contests the action of the originating district in approving, modifying or disapproving a plan, the concern shall be handled in accordance with the Commission's Administrative Manual for the Nutrient Management Program. Final decisions of the Commission in that matter will be defended by a Commonwealth attorney appointed for the Commission in accordance with law. The appropriate certified originating district and reviewing district staff will participate in the appeal matters, as requested by the Commission.

10. Term of the Agreement. This Memorandum shall become effective as of the date when duly signed by the parties hereto [*or upon a date set forth in this paragraph*], and shall be effective for a term of 10 year(s) [*or until a date set forth in this paragraph*]. Extensions and renewals of this Memorandum any be agreed to by the parties in writing. An executed copy of an extension shall be sent to the Executive Secretary of the Commission.

11. Scope of the Agreement. (Optional) The signatory parties to this Memorandum agree to limit the scope of this agreement by limiting the technical assistance resources provided by each party for the responsibilities outlined in this Memorandum as follows:

- \_\_\_\_\_ review all plans received (no technical assistance limits).
- \_\_\_\_\_ review up to \_\_\_\_\_ plans per \_\_\_\_\_.
- \_\_\_\_\_ review plans as resources permit.
- \_\_\_\_\_ review plans in accordance with the following. *[Insert special terms of negotiated agreement between the districts].*

12. Modifications to this Agreement. Modifications to this Memorandum may be negotiated between the parties and set forth as a separate written addendum to this document. The modification shall not become effective unless and until approved in writing by the Executive Secretary of the Commission.

13. Termination of the Agreement. This Memorandum may be terminated by either party upon thirty (30) days written notice to the other party. Within 10 days of such termination, the district terminating the Memorandum shall inform the Commission of this action in writing.

14. Notification to the Commission. An executed copy of this Memorandum shall be filed by the originating district and the reviewing districts and sent to the Executive Secretary of the Commission as soon as it is finalized. The executed copy shall be considered to be approved by the Commission in accordance with each district's delegation agreement for the Nutrient Management Program upon receipt by the Commission, unless the district is notified by the Commission in writing to the contrary.

*In witness whereof, the parties do set their hands and signatures this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.*

*[Provide spaces below for the signatures of originating and reviewing district directors or manager , in accordance with each district's legal requirements for ratification of this, agreement Review of the agreement by the district's, legal counsel is recommended. Submission of the executed agreement to the Executive Secretary of the State Conservation Commission is necessary]*

\_\_\_\_\_  
Chairman  
\_\_\_\_\_ County Conservation District

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman  
\_\_\_\_\_ County Conservation District

\_\_\_\_\_  
Date

# Bulletin Notices for Submission and Actions on CAFO NMPs, CAFO Decision Trees, and How CAFO NMPs are Handled

## Appendix IV

**A. PA Bulletin Notices for CAFOs:**

DEP Southcentral Regional Office (SCRO) is responsible for publishing all PA Bulletin notices for NMPs that are required for CAFOs.

This includes NMPs for new or existing CAFOs.

Conservation Districts should be submitting Pennsylvania Bulletin Notices for Submissions of and Actions on CAFO NMPs to the DEP SCRO at [RA-EPSCCWPABULL@pa.gov](mailto:RA-EPSCCWPABULL@pa.gov)

**B. Process for Submission of NMPs to the DEP before a CAFO Permit Application is submitted:**

Per the NM Technical Manual, once a NMP for a CAFO is deemed administratively complete by the conservation district (CD) or the SCC, the NMP writers is to send a copy of the NMP to DEP, so DEP may do a concurrent technical review of the NMP with the plan reviewer.

For CAFOs that do not currently have a permit, follow the Process for Submission of NMPs to the DEP – with a CAFO Permit Application below (with the exception that the permit application will be submitted with the approved NMP at a later date).

For CAFOs that have a current permit, follow the Process for Submission of New/Updated/Amended NMPs to the DEP - that are not submitted with a CAFO Permit Application below.

**C. Process for Submission of NMPs to the DEP – with a CAFO Permit Application:**

SCRO should receive the current approved NMP as part of the CAFO Permit application.

The NMP should be sent to the SCRO Clean Water Program, CAFO Permitting.

The CD's NMP Approval Letter should also be sent to the SCRO Clean Water Program, CAFO Permitting.

The address to submit CAFO Permit Applications is as follows:

Attn: Clean Water Program, CAFO Permitting  
DEP Southcentral Regional Office  
909 Elmerton Ave, Harrisburg, PA 17110.

[RA-EPSCDEPFARMING@pa.gov](mailto:RA-EPSCDEPFARMING@pa.gov) may be used for electronic correspondence.

**D. Process for Submission of New/Updated/Amended NMPs to the DEP -  
that are not submitted with a CAFO Permit Application:**

The DEP HOME REGION (NCRO, NERO, NWRO, SERO, SWRO) should receive any New/Updated/Amended NMP that is not part of a CAFO Permit Application.

Any draft or final NMPs submitted to the DEP during a CAFO mid-permit term should be submitted to the DEP HOME REGION. This would include plan amendments, updates, and Nutrient Balance Sheets.

The CD NMP Administrative Completeness Letters, Approval Letters, Withdraw Letter, or Denial Letters, should also be sent to the DEP HOME REGION.

CDs or NMP plan writers should contact their DEP CAFO Ag compliance staff in the DEP HOME REGION for any question or comments related to the mid-permit NMPs.

CDs NMP on-site status review paperwork, etc. should be sent to the DEP CAFO Ag compliance staff in the DEP HOME REGION.

CAFO Annual Reports should be submitted to the DEP HOME REGION.

The Annual Report for CAFO NPDES PAG-12 Permits may also require submittal of a new/updated/amended NMP (see below from annual report instructions).

**CAFO NMP**  
**PUBLIC NOTICE SPREADSHEET – APPLICATIONS (Submission)**

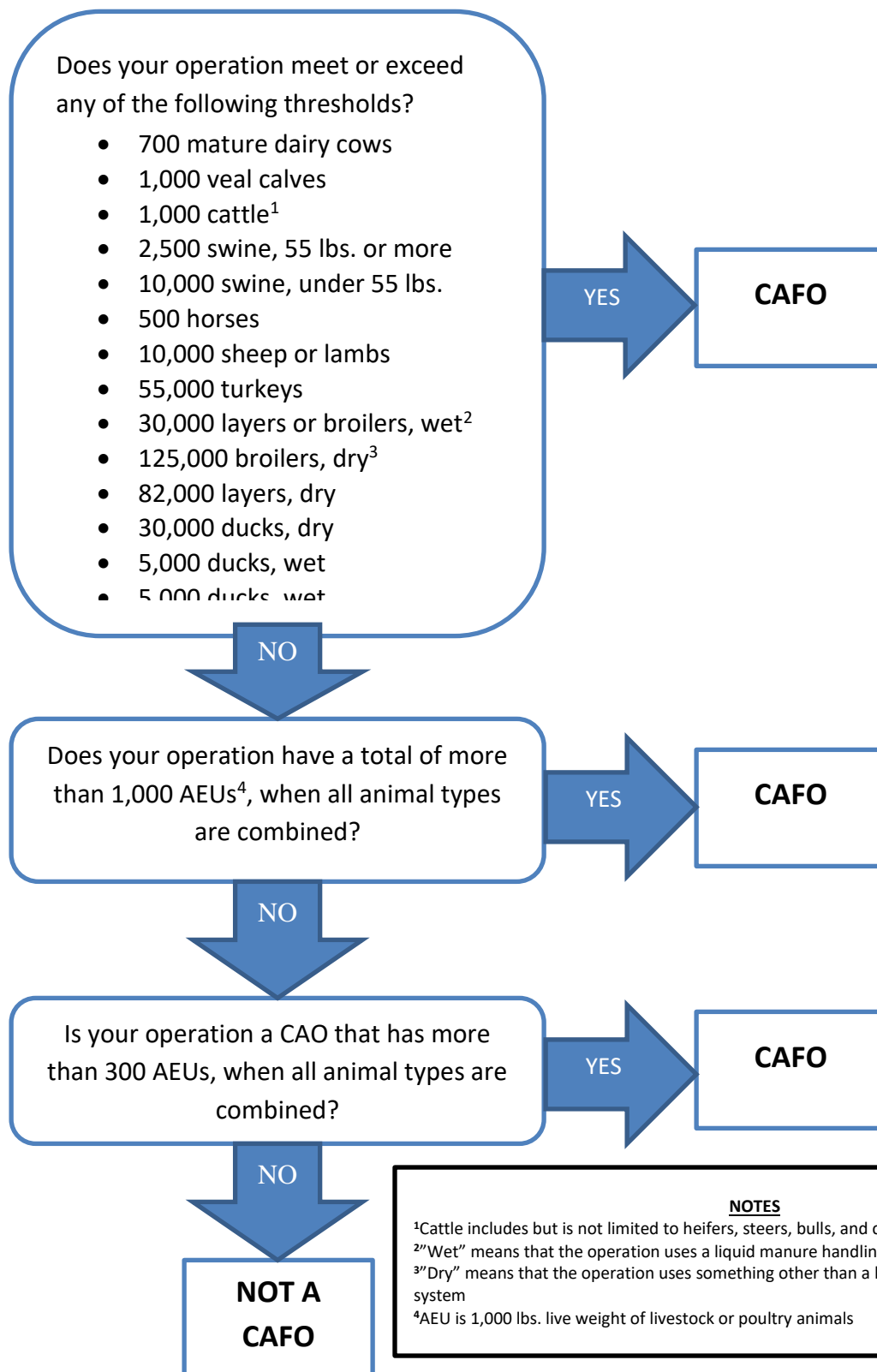
[illegible]

Appendix IV –PA Bulletin Notices for Submission and Actions on CAFO NMPs and  
CAFO Decision Trees

**CAFO NMP  
PUBLIC NOTICE SPREADSHEET – ACTIONS (Approval /  
Disapproval)**

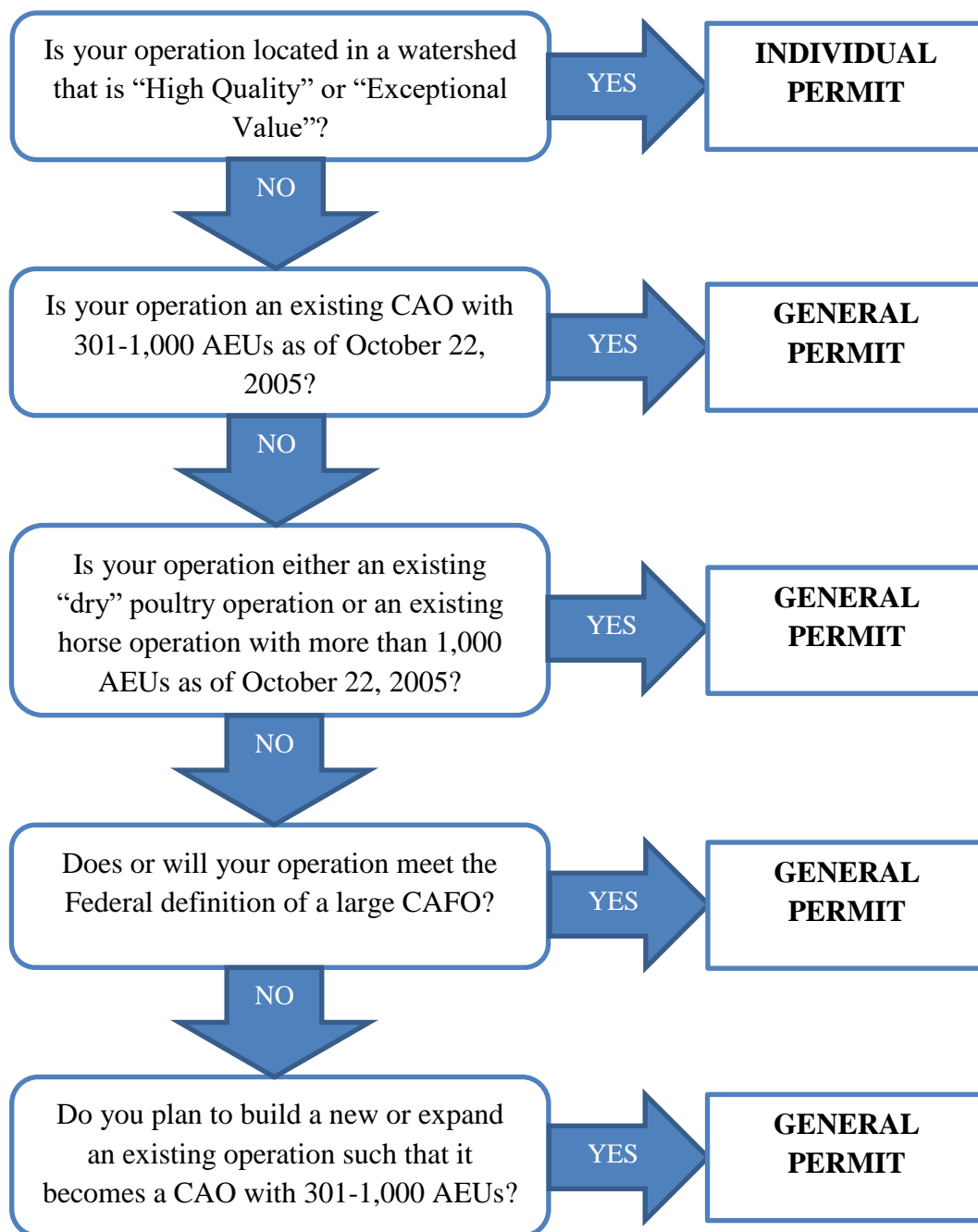
<u>Agricultural Operation (Name and Address)</u>	<u>County</u>	<u>Total Acres</u>	<u>Animal Equivalent Units (AEUs)</u>	<u>Animal Type</u>	<u>Special Protection Waters (HQ or EV or NA)</u>	<u>Approved or Disapproval</u>

## Is My Operation a CAFO?





## Which CAFO Permit Do I Need?



**IMPORTANT NOTE:** Complete eligibility criteria are supplied in the Instructions for Completing and Submitting an NOI. The Department may deny coverage under the General Permit and require an application for an Individual NPDES Permit, based on a review of the NOI or other information.

# Suggested CD BOD Meeting Procedures

## Appendix V

**Suggested Conservation District BOD Meeting Procedures to Follow**

***When considering an action on a Nutrient Management Plan that has public opposition, or when significant public input is anticipated, the following procedures to be followed are highly recommended.***

(All Board members should review these procedures prior to the meeting.)

**Prior to the Board Meeting:**

- a. Allow public access to the Nutrient Management Plan (NMP) as soon as the plan is determined to be administratively complete. Provide the plan to the public consistent with the district's public access policy (it is vital that the district have an approved public access policy prior to review of the nutrient management plan).
- b. If the plan is not in its final form, the file should contain a statement on district letterhead indicating the preliminary status of the plan and the allowance for the public to review later versions of the plan as they are submitted for review.
- c. Distribute a copy of the NMP to all Board Members when it is in its final form (at least 7 days prior to the meeting date).
- d. Come prepared for the meeting. Read the plan prior to arriving and be prepared with questions you may have relating to the plan or operation in general.

**At the Board Meeting:**

1. Consider the following:
  - a. Big room
  - b. Formal setting such as a county courthouse room (not a fire hall, etc.)
  - c. Security at the door and then in the room during the meeting
  - d. A gavel to win control of the meeting when necessary
  - e. Multi-microphone loud speaker system
  - f. Agenda (keep it short)
  - g. Tape recorder (dedicated tapes)
  - h. Sign in sheets (one for general sign-in, and one for those who wish to present)
  - i. Someone to sit at the sign-in table to direct the public
  - j. Name cards for the resource people (? for board members)
  - k. A podium for guests to speak from
  - l. Tables for the Board members, a table for resource people (one for planner)
  - m. Formally (in writing) invite program resource people (state staff) if you would like their involvement
  - n. County lawyer

## Appendix V –Appeals of CD Decisions

2. Format the meeting to have little else than this issue. Do not expect to do much after this agenda item is complete. This should be the last thing on the agenda but it should take less than 30 minutes before you get to this item on the agenda.
3. The person facilitating this portion of the meeting should be ready to take and keep control. Do not allow outbursts or other noise that disrupts the Board's ability to hear and follow the information being presented or disrupts a non-bias flow of the meeting.
4. Read a statement created by the district concerning the district's involvement in the program and what the district's obligations are under the delegation agreement with the state.
  - a. Include the statement that this is a district board meeting run with the purpose to allow the Board to deliberate action on a submitted nutrient management plan. All are welcome at the meeting to observe the Board during its deliberation and to provide comment to the Board if they wish. All comments and questions from the public are to be directed to the Board. The Board may wish to ask questions of their resource people to assist them in assessing comments or questions presented to them by the public.
  - b. Include the procedures to be followed during the plan deliberation section of the meeting in order to provide the board with a description of the proposal and to allow for the public opportunity to provide comment in an orderly and constructive manner. Public comment will be managed consistent with the district's prior approved public access policy which normally limits comments to 5 minutes per individual and 10 minutes per group representative (if only one person will represent a group).
  - c. See attached guidance for additional issues that can be addressed in this statement.
5. Call on the planner to summarize the plan and proposed operation to the Board.
  - a. It is often best if the planner can take the Board through the plan in some orderly fashion, possibly a power point presentation or a summary handout of overheads.
  - b. Board members should be prepared to ask questions of the planner to assure they understand the procedures described in the plan.
6. Call on the reviewer to summarize their plan review activities and provide their recommendations for approval or disapproval of the plan.
  - a. The reviewer should describe, based on the regulatory criteria, why they make the recommendation.
  - b. The Board members should be prepared to ask questions of their staff relating to what they observed or verified during their review of the plan.
7. Next, the public should be called forward to provide their comments to the Board.
  - a. Public comment may not be related to the action on hand by the Board. All comments should be accepted during the meeting (you cannot cut someone

## Appendix V –Appeals of CD Decisions

- off because their comments do not relate to the NMP directly). The Board will only need to consider those comments that relate to the action on hand.
- b. The public should be called forward by the facilitator (Chairman or Vice-Chairman) in order on the sign-in sheet.
  - c. The farmer should take the opportunity to present at this time to allow the Board to ask questions of the operator if they have any.
  - d. Following each presentation, Board members should ask follow-up questions of the individual presenters to further clarify their statements or comments (this is not a time to debate their comments).
  - e. Board members may ask any questions to their attending resource people to help them understand the requirements that they are authorized to administer. Resource people are only there to assist the Board in their deliberation and will only provide comment if the Board asks them for their input.
  - f. Board members do not need to respond to all questions or issues of the public, they only need to focus on issues relevant to their action on the plan.
  - g. Everyone should be given the opportunity to comment. After all pre-signed presenters have provided comments the Chair/Vice-Chair needs to ask if anyone else cares to give formal comment to the Board.
8. Following public comment, the Board must publicly deliberate their action on the plan (this cannot be done in executive session). They can discuss with each other as well as utilize their resource people as they deliberate the plan. They must approve, disapprove or table the plan prior to moving onto the next agenda item.
- a. An action needs a motion, a second and a vote.
  - b. If the Board needs more time to research issues brought forward by the public or by a Board member, tabling of the plan will allow this additional time, as long as there is not a time conflict based on the 90-day plan review deadline.
  - c. Action on the plan should be done by a voice vote, unless it is close, and then a roll call voice vote may be necessary.
  - d. If a Board member stands to have a financial gain in the decision made on the plan, then they should abstain from voting and they should state their abstention at the beginning of the meeting. If there is a question, check with legal staff to determine if there is a conflict of interest.
  - e. The Board Chair/Vice-Chair needs to keep tight control over the meeting at all times. All questions and comments must be channeled through the Chair/Vice Chair. If any noise or disruption starts during the meeting, the Chair/Vice-Chair should regain control by use of the gavel and direction to respect others and the meeting environment. The Chair/Vice-Chair must insist that control be maintained or the individuals will need to be removed from the meeting room in order to allow the Board to deliberate the plan in an orderly and efficient manner.

9. Meeting minutes need not reflect specific comments provided by the various presenters, they need only to document who presented and the general topic or issues they presented. The Board should note issues requiring follow-up and direct staff or agency support staff to address these issues.

**Suggested Conservation District BOD Meeting Template for Chairman to Follow**

*When taking action on a controversial NMP, or one with public opposition, it is critical that the chairman maintain control of the meeting at all time. The chairman can often help maintain order by properly setting the stage for the meeting, so that the board is able to successfully do their job uninhibited. The following topics are meant to be included in a statement that would be read by the Board Chairman when beginning deliberations of a controversial Nutrient Management Plan, or one with public opposition:*

- d. Delegated authority to take action consistent with NMA. The district has limited authority as to what it can consider when it takes action on a nutrient management plan. These limits are those criteria established in the NMA regulations.
  - A. NM Act established criteria which must be met in order to obtain an approved NMP. If a plan does not meet these criteria, it is to be disapproved; as a plan meets these criteria, and properly accounts for local farming constraints, it is to be approved.
  - B. Criteria established by State Conservation Commission. Water quality criteria to address nutrient pollution.
- e. This is a meeting of the conservation district board and not a hearing or an information session. Although information can be gained at this meeting, the board is here to act on conservation district activities. The public is invited to comment in accordance with the district public comment policy.
- f. State that plan was made available to the public as of \_\_\_\_\_ (date).
- g. District has state certified staff available to provide review, consistent with NMA requirements.
- h. District directors also provide local input on practicality of the plan relating to the local conditions, special local environmental issues and concerns, and farming practices and realistic local expectations.
- i. Also other resources people asked to help during the district's deliberations (if appropriate).
- j. Lay out the format for this portion of the meeting:
  - A. NM Planner gives review of plan.

## Appendix V –Appeals of CD Decisions

1. Staff Specialist gives summary of review actions and recommendation. Conservation District Board can ask questions at any time during these two presentations.
  2. Public called up according to sign up sheet, CD board may ask questions to help clarify and understand the public comments.
- k. Chairman or facilitator will keep control of the meeting. Do not interject or initiate outbreaks unless given the floor by the chairman or facilitator. All questions and comments are to be directed to the district facilitator, who may direct questions and concerns to their resource people, if necessary.
- l. District action on the plan is not based on whether or not the district supports or is in opposition to the operation in general, action merely indicates if the plan meets NMA program criteria established in the PA NMA regulations.

# Appeals of District Decisions on NMA Delegated Responsibilities

## Appendix VI



**Appeals of District Decisions on NMA Delegated Responsibilities  
(Not related to the NMA financial assistance program)**

**A. General requirements**

A final decision made by the State Conservation Commission (“SCC”) or a delegated conservation district (district), such as approving or disapproving a nutrient management plan, may be appealed by any affected person to the Pennsylvania Environmental Hearing Board (“EHB”). It is very important that the district follow the criteria established by the regulations (Title 25, Chapter 83.201 et. seq.) related to what must be met in order to approve or disapprove program submissions such as plans, waiver requests, plan implementation extensions, etc. Following these established criteria will assure that the district has justifiable and defensible reason for the actions that it has taken.

The appeal process is initiated by filing the appeal with the EHB. The affected party must file the appeal within 30 days of the approval, disapproval or other final action. When the SCC or conservation district action is published in the Pennsylvania Bulletin (for CAFOs) the appeal period runs 30 days from the publication date. If the district expects an appeal or is aware of an appeal, the aggrieved party should be made aware that the final decision must be appealed within 30 days, regardless of whether or not they choose to participate in any informal reconsideration process. The address for the EHB is listed below. The rules of the Environmental Hearing Board may be obtained from the Board at no charge and are also available on line at the EHB website

<http://ehb.courtapps.com/public/index.php>. In some cases, the aggrieved person may have to retain an attorney. DEP’s Office of Chief Counsel will represent the conservation district and the State Conservation Commission (SCC).

The EHB will require that the parties to the appeal meet to discuss the possibility of resolving the matter or, at a minimum, limiting the issues in the appeal. Most appeals are resolved through this settlement process. Were the parties cannot resolve the appeal, the case proceeds through the EHB process to a hearing and decision by the EHB.

PA Environmental Hearing Board  
Rachel Carson State Office Building  
400 Market St.  
P.O. Box 8457  
Harrisburg, PA 17105-8457  
Phone: 717-787-3483

**B. Multi-district arrangements**

1. Host duties:

Since no final decisions are made by the host district in relation to operations within the associate district's jurisdiction, there is minimal involvement of the host technician in relation to an appeal initiated in an associate district. The host technician should provide all information and reports to the associate district that it can use as justification for the decision of the associate district in case an appeal would be submitted. The host technician may be asked to provide supportive technical information related to the associate district's decision in the case of an appeal. The host technician should document all efforts and observations in the case that the information may be needed in an appeal of an operation in an associate district.

2. Associate duties:

All final decisions of the associate district are appealable and therefore the district will need to retain all pertinent information related to any decisions that it makes. This includes all relevant reports and correspondence provided to the associate district by the host technician.

# REFERENCE MATERIALS

## Appendix VII

## **REFERENCE MATERIALS**

Manure Management Manual  
Pennsylvania Department of Environmental Protection  
Bureau of Conservation and Restoration  
PO Box 8555  
Harrisburg, PA 17105-8555  
<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-86014/361-0300-002%20combined.pdf>

Pennsylvania Technical Guide and Best Management Practices (BMPs)  
USDA - Natural Resources Conservation Service  
One Credit Union Place, Suite 340  
Harrisburg, PA 17110-2993  
<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/fotg>

Agronomy Guide  
The Pennsylvania State University  
Department of Agronomy  
116 Agricultural Sciences and Industry Bldg.  
University Park, PA 16802  
<http://extension.psu.edu/agronomy-guide>

Nutrient Management Act (Regulations / Technical Manual / Excel Spreadsheets)  
State Conservation Commission  
2301 N. Cameron St.  
Room 310  
Harrisburg, PA 17110  
[http://panutrientmgmt.cas.psu.edu/main\\_technical\\_manual.htm](http://panutrientmgmt.cas.psu.edu/main_technical_manual.htm)

Livestock Waste Facilities Handbook  
Available from: Agricultural Publication Center  
112 Agricultural Administration Bldg.  
University Park, PA 16802

County Soil Survey Maps, and County rainfall and evaporation data.  
See your local: County Conservation District, or  
USDA - Natural Resources Conservation Service

High Quality/Exceptional Value Waters Special Protection Waters Listing  
Title 25, Chapter 93 of PA Rules and Regulations  
Pennsylvania Department of Environmental Protection  
Bureau of Watershed Conservation  
PO Box 8555  
Harrisburg, PA 17105-8555

## Appendix VII – Reference Materials

Erosion and Sedimentation Control Program Technical Manual, and Title 25,  
Chapter 102 Regulations  
Bureau of Water Quality Protection  
PO Box 8465  
Harrisburg, PA 17105-8465

Penn State College of Agricultural Sciences Cooperative Extension Nutrient  
Management Factsheets  
<http://extension.psu.edu/plants/crops/nutrient-management>

# PROGRAM CONTACTS

## Appendix VIII

## NUTRIENT MANAGEMENT PROGRAM

### LOCAL / COUNTY / STATE CONTACTS

#### **County Conservation District**

Look in the phone book Blue Pages under your county name for “Conservation District”  
<http://pacd.org/your-district/find-your-district/>

**Natural Resources Conservation Service – County Field Office** Look in the phone book Blue Pages under United State Government for Department of Agriculture, Natural Resources Conservation Service (it may still be under its former name – Soil Conservation Service)  
<http://www.pa.nrcs.usda.gov/contact/index.html>

**Penn State Cooperative Extension – County Office** Look in the phone book Blue Pages under United State Government for Department of Agriculture, Cooperative Extension  
<http://extension.psu.edu/counties>

### STATEWIDE CONTACTS

#### **State Conservation Commission**

2301 N. Cameron Street, Room 311  
Harrisburg, PA 17110-9408  
717-787-8821  
717-705-3778 (FAX)

#### **Vacant**

Nutrient and Odor Management Program Director

Oversees the implementation of the Nutrient Management Program in Pennsylvania. Provides technical, administrative and programmatic guidance to program participants, district staff and boards, the press, ag industry representatives and the general public. Oversees program policy and regulation development and future program direction. Assists with the legal issues related to the program and activities involving the Environmental Hearing Board.

---

#### **Brady Seeley**

Conservation Program Specialist 2  
717-772-4188  
Email: braseeley@pa.gov

Oversees Regional Coordinators. Responsible for technical assistance in regards to nutrient and manure management. Provides nutrient management or odor management plan review assistance and assist program managers with special duties as needed. Serves as the SCC staff liaison to the nutrient management advisory board.

---

### **Laurel Rush**

Nutrient Management Program Regional Coordinator

215.287.3728(cell)

Email: [larush@pa.gov](mailto:larush@pa.gov)

Provides Act 38 assistance to the Western Region County Conservation Districts. Oversees compliance/enforcement actions related to the Act 38 rules and regulations. Provides information on program policies, procedures and technical issues to program participants, district staff and boards and the general public. Act as a liaison between conservation districts and the State Conservation Commission. Assists with the Odor Management Program and other programs administered by the SCC on an as needed basis.

---

### **Michael Brubaker**

Nutrient Management Program Regional Coordinator

717-705-1688

Email: [mibrubaker@pa.gov](mailto:mibrubaker@pa.gov)

Provides Act 38 assistance to the Southeastern Region County Conservation Districts. Oversees compliance/enforcement actions related to the Act 38 rules and regulations. Provides information on program policies, procedures and technical issues to program participants, district staff and boards and the general public. Act as a liaison between conservation districts and the State Conservation Commission. Assists with the Odor Management Program and other programs administered by the SCC on an as needed basis.

---

### **Jamie Ulrich**

Nutrient Management Program Regional Coordinator

215-287-5187 (cell)

Email: [aulrich@pa.gov](mailto:aulrich@pa.gov)

Provides Act 38 assistance to the Central Region County Conservation Districts. Oversees compliance/enforcement actions related to the Act 38 rules and regulations. Provides information on program policies, procedures and



technical issues to program participants, district staff and boards and the general public. Act as a liaison between conservation districts and the State Conservation Commission. Assists with the Odor Management Program and other programs administered by the SCC on an as needed basis.

---

**Amy Zerbe**

Nutrient Management Program Regional Coordinator  
215-287-9704 (cell)  
Email- [amzerbe@pa.gov](mailto:amzerbe@pa.gov)

Provides Act 38 assistance to the Northeastern Region County Conservation Districts. Oversees compliance/enforcement actions related to the Act 38 rules and regulations. Provides information on program policies, procedures and technical issues to program participants, district staff and boards and the general public. Act as a liaison between conservation districts and the State Conservation Commission. Assists with the Odor Management Program and other programs administered by the SCC on an as needed basis.

**Tyler Echard**

Nutrient Management Program Regional Coordinator  
(717) 257-6523 (office)  
Email: [techard@pa.gov](mailto:techard@pa.gov)

Provides Act 38 assistance to Adams and Schuylkill Counties. Oversees compliance/enforcement actions related to the Act 38 rules and regulations. Provides information on program policies, procedures and technical issues to program participants, district staff and boards and the general public. Act as a liaison between conservation districts and the State Conservation Commission. Assists with the Odor Management Program and other programs administered by the SCC on an as needed basis.

---

**Michael Aucoin**

Certification & Education Specialist  
717-772-5218  
Email: [maucoin@pa.gov](mailto:maucoin@pa.gov)

Manages the Pennsylvania Nutrient Management, Commercial Manure Hauler and Broker and the Odor Management Certification/Education Programs which includes approving courses for continuing education credits, conducting training, keeping track of specialist's progress towards provisional and final certification,

enforcement of certification issues, promulgating regulations and coordinates educational programs with cooperating agencies.

---

**Mark Jackson**

Conservation Program Specialist  
717-836-3373  
Email: [markjackso@pa.gov](mailto:markjackso@pa.gov)

Conducts the evaluation of nutrient management plan reviews by public nutrient management specialists for certification. Provides nutrient management or odor management plan review assistance. Monitors plan review and plan development activities for the Nutrient Management and Odor Management programs.

---

**Karl Dymond**

Odor Management Program Coordinator  
215-287-4564 (cell)  
Email: [kdymond@pa.gov](mailto:kdymond@pa.gov)

Coordinates the development and implementation of the Commission's Odor Management Program and regulations. Provides odor program assistance statewide.

**Penn State Cooperative Extension**

Penn State Nutrient Management  
116 ASI Building  
University Park, PA 16802  
814-865-6541  
814-863-7043 (FAX)

**Charlie White**

Assistant Professor and Extension Specialist, Soil Fertility and Nutrient Management  
Department of Crop and Soil Sciences  
410 ASI Building  
University Park, PA 16802  
814-863-1016  
Email: [cmw29@psu.edu](mailto:cmw29@psu.edu)

Acts as an educational resource to the Pennsylvania Nutrient Management Program. Provides technical information to questions relating to nutrient

management, manure management, water quality best management practices and related agronomic and livestock management issues.

---

**Robert Meinen**

Assistant Research Professor  
Nutrient Management Education Program  
PSU Department of Plant Science  
116 ASI Bldg., University Park, PA 16802Office: (814) 865-5986  
Cell: (814) 360-4243  
Email: [rjm134@psu.edu](mailto:rjm134@psu.edu)

Serves as a liaison between the Penn State University and the PA Department of Agriculture. Acts as an educational resource to the Pennsylvania Nutrient Management Program. Provides technical information to questions relating to nutrient management, manure management, water quality best management practices and related agronomic and livestock management issues.

---

**Donald Orner**

Education Specialist  
2301 N. Cameron Street, Room 311  
Harrisburg, PA 17110-9408  
610-804-0010  
Email: [dgo2@psu.edu](mailto:dgo2@psu.edu)

Responsible for overseeing and updating the Nutrient Management Program Excel planning tools and related training material, providing ongoing training and support for nutrient management specialists using the planning tools, and providing continuing education training.

---

**Vacant**

Research Technologist

Responsible for overseeing and updating the Nutrient Management Program Excel spreadsheets, providing ongoing support for nutrient management specialists using the spreadsheets, and teaching the NMP-NBS Spreadsheet Orientation classes.

**United States Department of Agriculture, Natural Resources Conservation Service**

One Credit Union Place, Suite 340  
Harrisburg, PA 17110-2993

717-237-2100 / 717-237-2238 (FAX)

**Mark Goodson**

Agronomist, NRCS

717-237-2146

Email: [mark.goodson@pa.usda.gov](mailto:mark.goodson@pa.usda.gov)

Provides leadership for the Nutrient Management conservation practice standard 590 and the nutrient management policy which covers the technical aspects of managing the amount, source, placement, form and timing of the application of plant nutrients. Provides agronomic technical guidance to NRCS staff and others who work with NRCS programs.

---

**Tim Peters, PE**

Agricultural Engineer, NRCS

717-237-2212

Email: [tim.peters@pa.usda.gov](mailto:tim.peters@pa.usda.gov)

Provides leadership development of engineering standards in PA Tech Guide, engineering design procedures and aids, engineering training, and interagency coordination on ag waste issues. Covers the technical aspects of manure management and manure storage in the Nutrient Management Program.

**Department of Environmental Protection, Bureau of Conservation and Restoration**

Pennsylvania Department of Environmental Protection

Bureau of Clean Water

PO Box 8774

Harrisburg, PA 17105-8774

**Kate R. Bresaw** | Environmental Group Manager

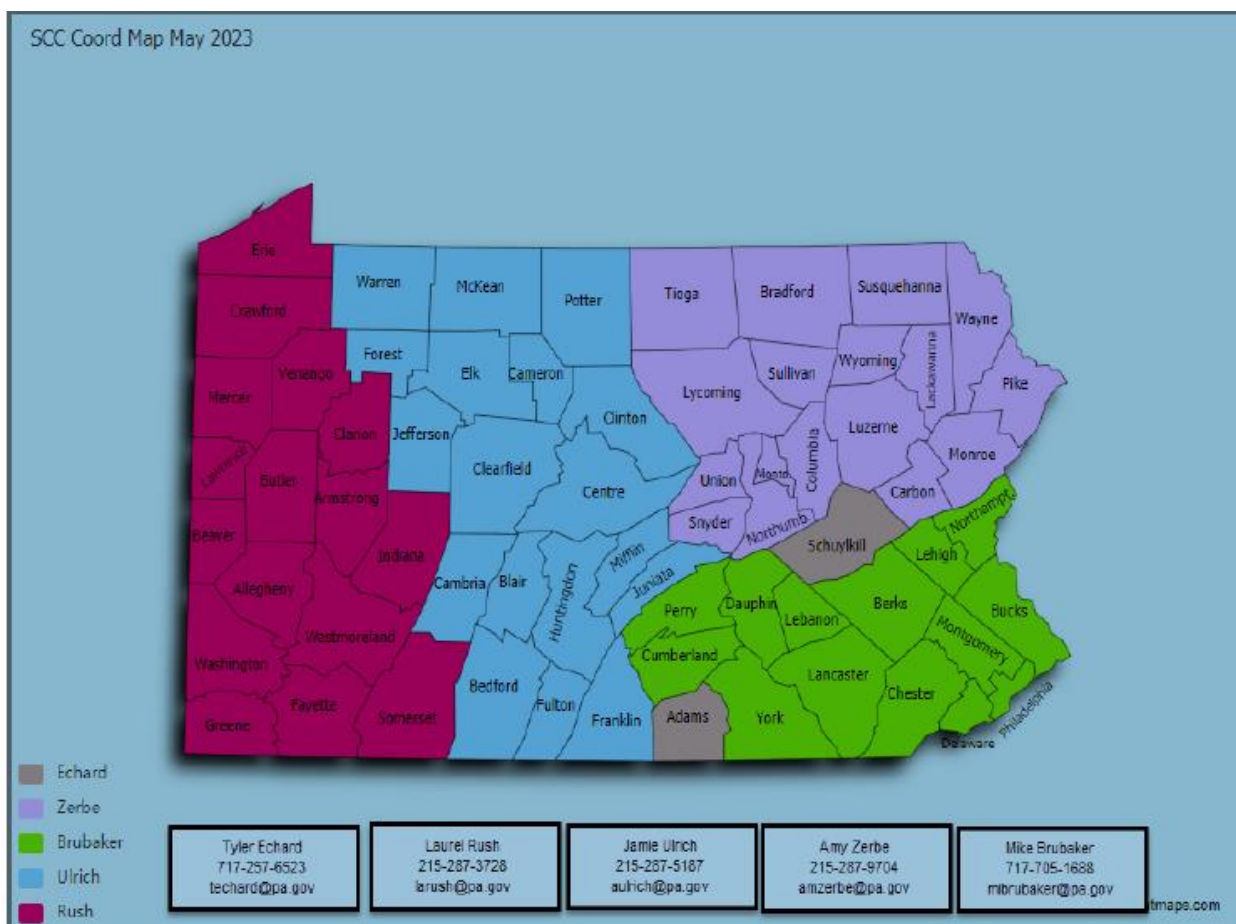
717-772-5650

Email: [kbresaw@pa.gov](mailto:kbresaw@pa.gov)

Handles the nutrient management delegation agreements for conservation districts and related reporting activities. Assists with delegation program funding and development of support and outreach materials.



## Appendix VIII



## DEP REGIONAL OFFICES

### Southwest Region

400 Waterfront Drive  
Pittsburgh, PA 15222  
412 442-4000

### Counties

Allegheny, Beaver, Cambria, Fayette,  
Greene, Somerset, Washington and  
Westmoreland

### Northeast Region

2 Public Square  
Wilkes-Barre, PA 18701  
570 826-2511

### Counties

Carbon, Lackawanna, Lehigh, Luzerne,  
Monroe, Northampton, Pike, Schuylkill,  
Susquehanna, Wayne & Wyoming

### Southcentral Region

909 Elmerton Avenue  
Harrisburg, Pa 17110  
717 705-4700

### Counties

Adams, Bedford, Berks, Blair, Cumberland,  
Dauphin, Franklin, Fulton, Huntingdon,  
Juniata, Lancaster, Lebanon, Mifflin, Perry  
and York

### Northwest Region

230 Chestnut Street  
Meadville, PA 16335  
814 332-6942

### Counties

Armstrong, Butler, Clarion, Crawford, Elk,  
Erie, Forest, Indiana, Jefferson, Lawrence,  
McKean, Mercer, Venango and Warren

### Southeast Region

2 E. Main Street  
Norristown, PA 19401  
484-250-5900

### Counties

Bucks, Chester, Delaware, Montgomery,  
and Philadelphia

### Northcentral Region

208 W. Third Street, Suite 101  
Williamsport, PA 17701  
570 327-3636

### Counties

Bradford, Cameron, Clearfield, Centre,  
Clinton, Columbia, Lycoming, Montour,  
Northumberland, Potter, Snyder, Sullivan,  
Tioga and Union

## Appendix IX

### Pennsylvania DEP's State Water Plan Watersheds

(Source: 2004 Pennsylvania Integrated Water Quality Monitoring and Assessment Report)

<http://www.dep.state.pa.us/dep/deputate/watermgt/Wqp/WQStandards/303d-Report.htm#List>

All waterbody use attainment information is organized by State Water Plan Subbasin, DEP five-digit stream code, and a segment identifier which identifies multiple unique stream segments within each five-digit stream code. DEP's five-digit stream code system is based on surface waters that appear on United States Geological Survey, 1:24,000 scale, 7.5 Minute Quadrangle Maps. Streams are segmented at the confluence of tributaries and each segment is identified by the DEP five-digit stream code and upstream and downstream river miles (distance above the mouth of the stream). See Figure 1 below for details.

Watershed_code	Watershed_name
01-A	RATTLESNAKE
01-B	LACKAWAXEN
01-C	WALLENPAUPACK
01-D	SHOHOLA
01-E	POCONO
01-F	BUSHKILL
02-A	TOBYHANNA
02-B	POHOPOCO
02-C	LEHIGH
02-D	THREE MILE
02-E	COMMON
02-F	NESHAMINY
03-A	SCHUYLKILL
03-B	MAIDEN
03-C	TULPEHOCKEN
03-D	MANATAWNY
03-E	WISSAHICKON
03-F	PERKIOMEN CREEK
03-G	RIDLEY



## Appendix IX

03-H	BRANDYWINE
03-I	WHITE CLAY
03-J	PENNYPACK
04-A	TIOGA/CONANESQUE CREEKS
04-B	BENTLEY/WAPPASENING CREEKS
04-C	TOWANDA CREEK
04-D	WYALUSING CREEK
04-E	SNAKE/STARRUCCA CREEK
04-F	TUNKHANNOCK CREEK
04-G	MEHOOPANY CREEK
05-A	LACKAWANNA RIVER
05-B	TROUT BROOK/HUNLOCK CREEK
05-C	FISHING CREEK
05-D	NESCOPECK CREEK
05-E	CATAWISSA CREEK
06-A	PENNS / MIDDLE CREEK
06-B	SHAMOKIN / MAHANOEY CREEKS
06-C	MAHANTANGO E. / WICONISCO
06-C1	MAHANTANGO WEST
07-A	SHERMAN CREEK
07-B	CONODQUINET CREEK
07-C	STONY/FISHING CREEK
07-D	SWATARA CREEK
07-E	YELLOW BREECHES CREEK
07-F	CONEWAGO CR. (WEST)
07-G	CONEWAGO CR. (EAST)
07-G1	CHICKIES CREEK
07-H	CODORUS CREEK

## Appendix IX

07-I	MUDDY CRK. / SUSQ. TRIBS.
07-J	CONESTOGA RIVER
07-K	PEQUEA / CONOWINGO/SUSQ. TRIBS.
07-K1	ELK CREEK
07-K2	OCTORARO CREEK
08-A	SINNEMAHOING CREEK
08-B	CHEST CREEK
08-C	CLEARFIELD CREEK
08-D	MOSHANNON CREEK
09-A	PINE CREEK
09-B	KETTLE/WOMANS CREEK
09-C	BALD EAGLE / SPRING CR.
10-A	LYCOMING CREEK
10-B	LOYALSOCK CREEK
10-C	BUFFALO / WHITE DEER / ETC.
10-D	MUNCY / CHILLISQUAQUA / SUSQ. TRBS.
11-A	LITTLE JUNIATA RIVER
11-B	STANDING/SHAVER CREEK
11-C	DUNNING/SHAFFER/COVE/ETC.
11-D	RAYSTOWN BRANCH JUNIATA
12-A	JUNIATA RIVER
12-B	TUSCARORA/BUFFALO CREEK
12-C	AUGWICK CREEK
13-A	WILLS/TOWN/FLINTSTONE CREEK
13-B	LICKING/TONOLOWAY CREEK
13-C	CONOCOHEAGUE CREEK
13-D	ROCK CREEK
14	GENESEE

## Appendix IX

15	WALNUT
16-A	FRENCH
16-B	KINZUA
16-C	OSWAYO
16-D	SUGAR
16-E	OIL
16-F	TIONESTA
16-G	SANDY
17-A	TOBY
17-B	CLARION
17-C	REDBANK
17-D	MAHONING
17-E	CROOKED
18-A	DEER
18-B	BEAVER
18-C	LOYALHANNA
18-D	TWO LICK
18-E	STONY
18-F	BUFFALO
19-A	TURTLE
19-B	TENMILE
19-C	MONONGAHELA
19-D	JACOBS
19-E	INDIAN
19-F	CASSELMAN
19-G	WHITELY
20-A	SHENANGO
20-B	BEAVER

## Appendix IX

20-C	CONNOQUENESSING
20-D	RACCOON
20-E	ENLOW FORK
20-F	CHARTIERS
20-G	SEWICKLEY

## Appendix IX

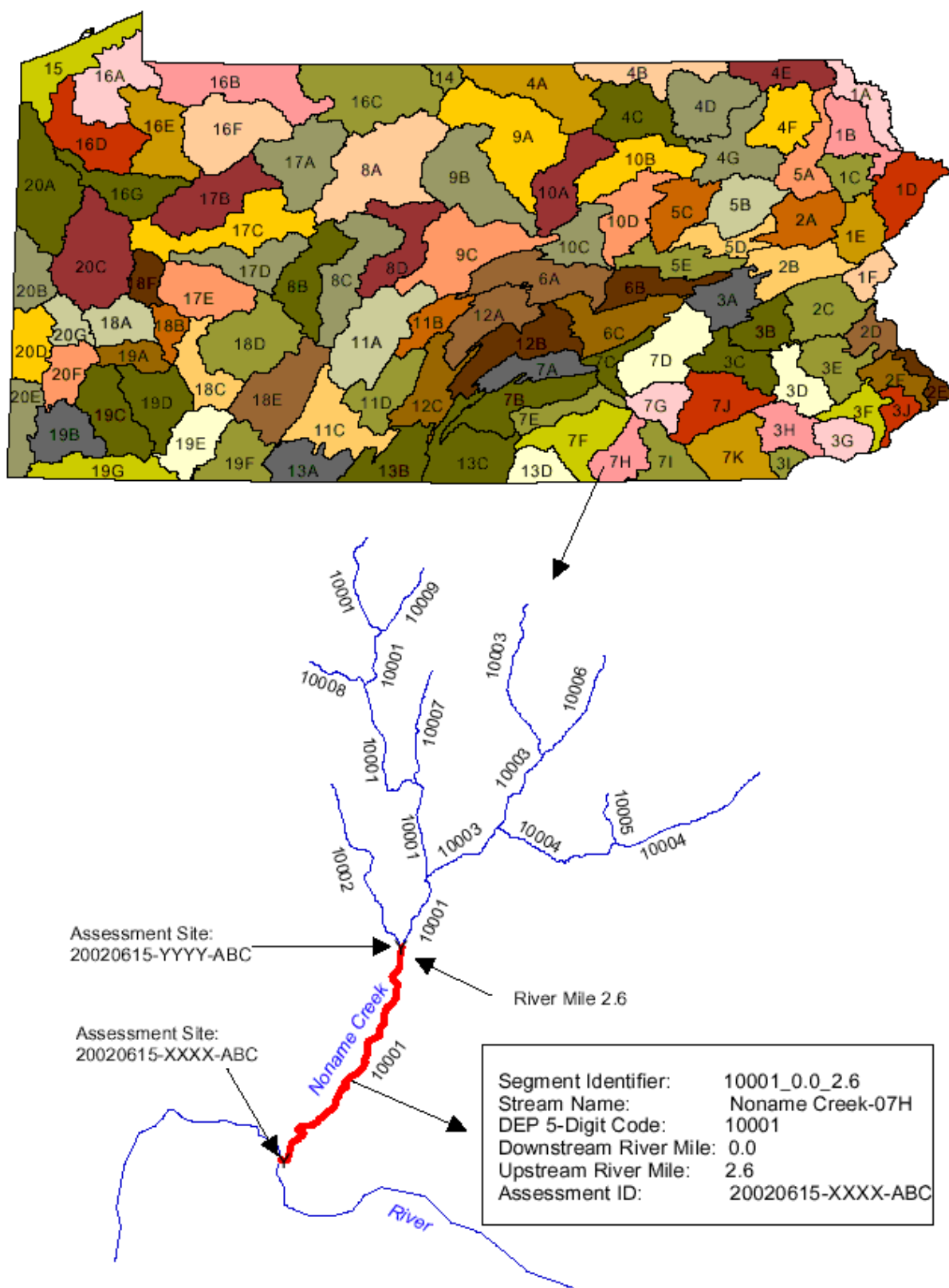


Figure 1. State Water Plan Watersheds and DEP's stream, segment, and assessment coding system

# CHAPTER 6

## BLANK FORMS / SAMPLE LETTERS / REVIEW GUIDELINES

**NOTE – Sample Letters for Nutrient Management Compliance Policy and DEP Agricultural Complaint Response Policy are located in Chapter 4**

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**Complaint Handling and Problem Assessment Form**  
**INTERNAL DISTRICT DOCUMENT (NOT TO BE SHARED)**

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ TAKEN BY: \_\_\_\_\_

CALLER: \_\_\_\_\_ REPRESENTS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: (H) \_\_\_\_\_ (W) \_\_\_\_\_ (OTHER) \_\_\_\_\_

COMPLAINT  
INFORMATION: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LANDOWNER / OPERATOR: \_\_\_\_\_

ADDRESS / LOCATION / DIRECTIONS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUAD SHEET / REFERENCE MAP: \_\_\_\_\_ RECEIVING STREAM / WATERBODY: \_\_\_\_\_

COUNTY: \_\_\_\_\_ MUNICIPALITY: \_\_\_\_\_

TYPE OF PROBLEM: \_\_\_\_\_

POLLUTION: YES \_\_\_\_\_ NO \_\_\_\_\_ DATE: \_\_\_\_\_

DISTRICT / DEP ASSESSMENT: \_\_\_\_\_ DATE: \_\_\_\_\_

INVESTIGATION FORM: YES \_\_\_\_\_ NO \_\_\_\_\_

DATE: \_\_\_\_\_

PHOTOS TAKEN: YES \_\_\_\_\_ NO \_\_\_\_\_

FINDINGS / COMMENTS:  
\_\_\_\_\_

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COORDINATION / REFERRAL TO COOPERATING AGENCY(S): YES \_\_\_\_\_ NO \_\_\_\_\_

AGENCY: \_\_\_\_\_ DATE: \_\_\_\_\_

PHONE: \_\_\_\_\_ LETTER: \_\_\_\_\_ OTHER: \_\_\_\_\_

INDIVIDUAL CONTACTED: \_\_\_\_\_ PHONE #: \_\_\_\_\_

RESPONSE TO COMPLAINANT: MEETING: \_\_\_\_\_ PHONE: \_\_\_\_\_ LETTER: \_\_\_\_\_

DATE: \_\_\_\_\_

STATUS: \_\_\_\_\_

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**Date:**

**COMMONWEALTH OF PENNSYLVANIA  
NUTRIENT MANAGEMENT PROGRAM  
NUTRIENT MANAGEMENT INSPECTION REPORT**

**Operator Name:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Municipality:** \_\_\_\_\_

**Watercourse or body of water:** \_\_\_\_\_

Responsible Person: \_\_\_\_\_

(Town)

**(State)**

**(Zip)**

**(Home Phone)**

**(Work Phone or**

**Cell Phone)**

**INSPECTION FINDINGS:** \_\_\_\_\_

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

**DESCRIBE VIOLATIONS IF ANY, INCLUDING ALL PERTINENT DIMENSIONS AND THE ACTUAL OR PLANNED IMPACTS TO WATERCOURSES OR BODIES OF WATER. CONFIRM COMPLIANCE WITH NUTRIENT MANAGEMENT ACT, THE REGULATIONS, AND APPROVED NMP FOR OPERATION.**

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**Photos taken:**            **Yes**    **No**

**RECOMMENDATIONS:**\_\_\_\_\_

[illegible]

**RESPONSIBLE PERSON SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**INSPECTOR SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**COMMONWEALTH OF PENNSYLVANIA  
NUTRIENT MANAGEMENT PROGRAM  
ON-SITE STATUS REVIEW REPORT**

Date: \_\_\_\_\_  
 Operation Name: \_\_\_\_\_  
 Person (s) Interviewed (Operator): \_\_\_\_\_  
 Report Completed By (Inspector): \_\_\_\_\_  
 Others Present: \_\_\_\_\_  
 Date of Plan Approval: \_\_\_\_\_  
 Operation Type (CAO, VAO or CAFO): \_\_\_\_\_  
 Date of next 3-year Plan review: \_\_\_\_\_

**Program Compliance  
(\* = Potential Act 38 Violations)**

<b><u>1. Nutrient Management Plan Implementation</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>N/A</u></b>
a. Is the operation current with its required plan review deadline?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
b. Are actual animal numbers consistent with the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
c. Acreage receiving manure application _____			
d. Does plan information and mapping represent operation?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
e. Are all sources of nutrient pollution addressed in the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
f. Is plan implementation on schedule?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
g. Are installed BMPs being maintained?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
h. Are manure application rates being followed?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
If no, explain: _____			
i. Is a certified manure hauler or broker being utilized?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hauler/Broker name and certification number: _____			
j. Is a "current" Conservation Plan or Ag E & S Plan in effect?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
k. Are all Critical Runoff Problem Areas (CRPAs) addressed?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
l. Is excess manure handled according to the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
m. Is the manure spreader calibrated to apply planned rates?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
n. Is <u>emergency</u> stacking required in the plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, is the site identified on plan maps?			
	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
o. Are required <u>in-field</u> stacking procedures implemented?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, are site(s) identified on plan maps?			
	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
If yes, are site(s) appropriate?			
	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
Is manure applied within 120 days (CAFOs 15 days) or covered?			
	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
p. Are fall/winter manure applications according to plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
q. Are the required setbacks being observed?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
r. Are pastured animals being managed as outlined in the plan?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
<b><u>2. Record Keeping; Are the following records maintained at the operation?</u></b>			
a. Crop yields:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
b. Manure/fertilizer application rates (includes comm. hauler):	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
c. Soil test results current:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
d. Manure analysis results:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
e. Manure export sheets:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
f. Nutrient balance sheets:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
g. Rerun of the P-Index every 3 years:	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

**3. Manure Storage Information (where applicable)**

Note: Although they may not be Act 38 violations, "No" answers in this section require remedial action.

a. Storage type and size: _____			
b. Is perimeter fence and warning signage in place/maintained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Is the structure free of significant cracks or structural damage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Are embankments free of manure saturated areas (seepage)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Are interior/exterior slopes free of holes, trees or erosion?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Has storage been certified by a Professional Engineer?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
g. Is Emergency Response Plan available on the operation?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>

**4. Animal Concentration Areas (ACAs)**

a. Are there ACAs on the operation (farmstead or pasture)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is surface water adequately protected from runoff?		<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>
c. Is erosion properly controlled at stream access point?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>	
d. Is manure collected and handled appropriately?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>	
e. Is animal access to stream properly controlled?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>	
f. Are pastures free of ACAs where runoff is reaching a stream?	<input type="checkbox"/>	<input type="checkbox"/> *	<input type="checkbox"/>	

**Inspector Notes:**

Are there violations of Act 38 regulations?	<u>Yes</u>	<u>No</u>
	<input type="checkbox"/>	<input type="checkbox"/>

If yes, specific violations (indicate section number and letter above):

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Are corrective actions needed?	<input type="checkbox"/>	<input type="checkbox"/>
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If yes, set approximate re-inspection date: \_\_\_\_\_

Further action required (indicate section number and letter above):

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Additional Comments:

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Signature of Inspector: \_\_\_\_\_

Signature of Operator: \_\_\_\_\_

(Operator signature does not signify guilt or agreement)

**COMMONWEALTH OF PENNSYLVANIA  
NUTRIENT MANAGEMENT PROGRAM  
SUPPLEMENTAL ON-SITE STATUS REVIEW REPORT**

**Nitrogen Supplemental NM BMPs**

**1. Rate:**

- ☐ Nitrogen application rate (manure and fertilizer) made at less than PSU Recommendations
- ☐ Nitrogen applied by crop in multiple lower rate split applications made throughout the growing year
- ☐ Nitrogen applied at variable rates at the sub-field level based on variable crop response data from historical records or PSNT, chlorophyll meter, etc.

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**2. Placement:**

- ☐ Applications of nitrogen are made with setbacks from surface waters (wells, streams, etc.)
- ☐ Injection or incorporation of inorganic nitrogen fertilizer only within 24 hours of application

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**3. Timing:**

- ☐ Nitrogen was applied through multiple applications based on recommendations from PSNT, chlorophyll meter, etc.
- ☐ Nitrogen applied by crop in multiple split rate applications made throughout the growing year

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**Phosphorus Supplemental NM BMPs**

**4. Rate:**

- ☐ Phosphorus application rate (manure and fertilizer) made at less than PSU Recommendations
- ☐ Applications of manure were based on annual crop removal of phosphorus rather than nitrogen
- ☐ Phosphorus applied at variable rates at the sub-field level based on variable crop response data from historical records or tools like optical crop sensors

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**5. Placement:**

- ☐ Applications of phosphorus are made with setbacks from surface waters (wells, streams, etc.)
- ☐ Injection or incorporation of inorganic phosphorus fertilizer within 24 hours of application

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**6. Timing:**

- ☐ Phosphorus was applied in seasons of lower risk for phosphorus loss
- ☐ Split applications of phosphorus fertilizer were made throughout the growing year

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_

**Optional for Applicable NMPs:**

- 7. **Manure Injection:** See guidance document in Supplement 3

**Planned Acreage:** \_\_\_\_\_

**Implemented Acreage:** \_\_\_\_\_



## **Guidance on How to Complete the Nutrient Management Supplemental On-Site Status Review Report and How to Input the Information into PracticeKeeper**

The purpose of this guidance document is to explain the purpose of the Nutrient Management Supplemental On-Site Status Review Report (Supplemental SR Report), how to complete the report, and how to record the information gathered into PracticeKeeper.

Nutrient Management Supplemental Best Management Practices are looking to be captured and recorded for Chesapeake Bay reporting purposes. These NM Supplemental BMPs are Nitrogen Rate, Placement, and Timing and Phosphorus Rate, Placement, and Timing. Pennsylvania receives Nitrogen Core Nutrient Management and Phosphorus Core Nutrient Management credits by farmers having and implementing approved Nutrient Management Plans (NMP). Now, the goal is to receive additional credits for these Supplemental BMPs in order to continue to achieve our reduction goals for the Chesapeake Bay.

Please use this guidance to assist in completing the Supplemental SR Report form as well as recording the gathered information into PracticeKeeper.

### **Nitrogen Supplemental NM BMPs:**

**1. Rate:** one or more of the following practices must be implemented resulting in a reduction in application rate of nitrogen.

- *Nitrogen application rate (manure and fertilizer) made at less than PSU Recommendations.*
  - Nitrogen from manure or fertilizer cannot exceed crop needs, which is already a requirement of all approved NMPs. However, it is common practice for the NMPs to “zero” out nitrogen in Appendix 4 via Supplemental Fertilizer. It may be necessary to check with operators to see exactly how much fertilizer was applied to the specific crops in order to determine how many acres received less than PSU Recommendations.
- *Nitrogen applied by crop in multiple lower rate split applications made throughout the growing year.*
  - Application rates are crop specific and manure is applied in multiple applications (i.e. instead of spreading 8,000 gallons of manure in the fall for the spring corn crop, applications of 4,000 gallons of manure is applied both fall and spring).
- *Nitrogen applied at variable rates at the sub-field level based on variable crop response data from historical records or PSNT, chlorophyll meter, etc.*
  - Nitrogen fertilizer is applied at variable rates within the field itself using test data or historical records.

**2. Placement:** one or more of the following practices must be implemented resulting in better placement and utilization of nitrogen.

- *Applications of nitrogen are made with setbacks from surface waters (wells, streams, etc.)*
  - This is a requirement of all approved NMPs, so this practice will be considered implemented after verified during inspection. All field acreage that has nitrogen applications apply.
- *Injection or incorporation of inorganic nitrogen fertilizer only within 24 hours of application.*

- This will mostly apply to starter fertilizer.

**3. Timing:** one or more of the following practices must be implemented resulting in better timing of nitrogen application.

- *Nitrogen was applied through multiple applications based on recommendations from PSNT, chlorophyll meter, etc.*
- *Nitrogen applied by crop in multiple split rate applications made throughout the growing year.*

### **Phosphorus Supplemental NM BMPs**

**4. Rate:** one or more of the following practices must be implemented resulting in a reduction in application rate of phosphorus.

- *Phosphorus application rate (manure and fertilizer) made at less than PSU Recommendations.*
  - This will be less common in NMPs compared to nitrogen.
- *Application of manure based on annual crop removal of phosphorus rather than nitrogen*
  - This will apply to CMUs that require a P-Index evaluation and resulted in a score of 80 or higher.
- *Phosphorus applied at variable rates at the sub-field level based on variable crop response data from historical records or tools like optical crop sensors.*
  - Phosphorus fertilizer is applied at variable rates within the field itself using test data or historical records.

**5. Placement:** one or more of the following practices must be implemented resulting in better placement and utilization of phosphorus.

- *Applications of phosphorus are made with setbacks from surface waters (wells, streams, etc.)*
  - This is a requirement of all approved NMPs, so this practice will be considered implemented after verified during inspection. All field acreage that has phosphorus applications apply.
- *Injection or incorporation of inorganic phosphorus fertilizer within 24 hours of application.*
  - This will mostly apply to starter fertilizer.

**6. Timing:** one or more of the following practices must be implemented resulting in better timing of phosphorus application.

- *Phosphorus was applied in seasons of lower risk for phosphorus loss.*
  - This practice is considered implanted if phosphorus is applied in the spring, summer, or early fall.
- *Split applications of phosphorus fertilizer were made throughout the growing year*
  - i.e. phosphorus fertilizer applied as a starter fertilizer and side-dress

After each section of this Supplemental SR Report, the planned and implemented acreage is to be recorded. For some sections the planned and implemented acreage should be the same (such as the setbacks in sections 2 and 5. This would be all field acreage contained in the NMP). Other implemented acreages will be determined based on the operations records and/or operator interview. If multiple practices satisfy a specific Supplemental BMP and the acreages overlap, do not combine. This would be considered double reporting.

### **Reporting in PracticeKeeper**

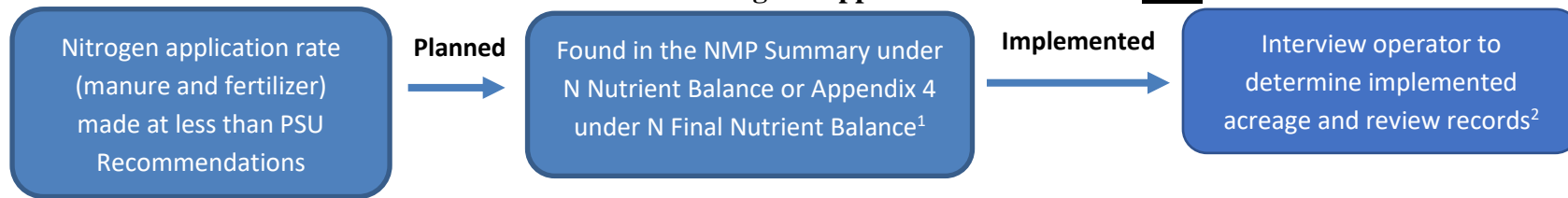
After a plan is approved by a County Conservation District Board of Directors, the technician should record the NM Supplemental BMP information into PracticeKeeper. This will be found under the Nutrient Management Plan module, in the tab labeled “Supplemental NM BMP’s”. The questions on the Supplemental SR closely resemble those in PracticeKeeper. All selections are a “Yes” or “No” answer. If “Yes” is selected, an additional input field will appear that will allow the planned acreage to be recorded.

After the Annual Status Review is completed, the verified NM Supplemental BMPs and implemented acreage are to be recorded.

Please contact your NM Program Regional Coordinator for any questions or assistance regarding the completing of the Supplemental SR Report.

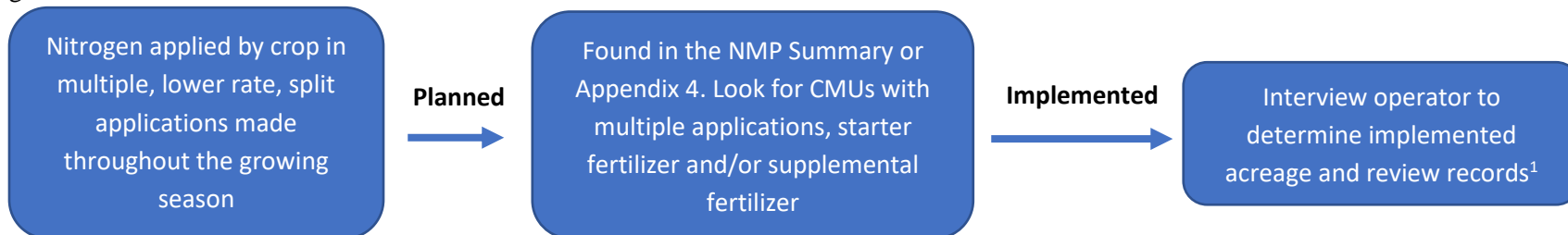
## **NMP Supplemental On-Site Status Review Report Flow Chart**

### **1. Nitrogen Supplemental NM BMP – Rate**

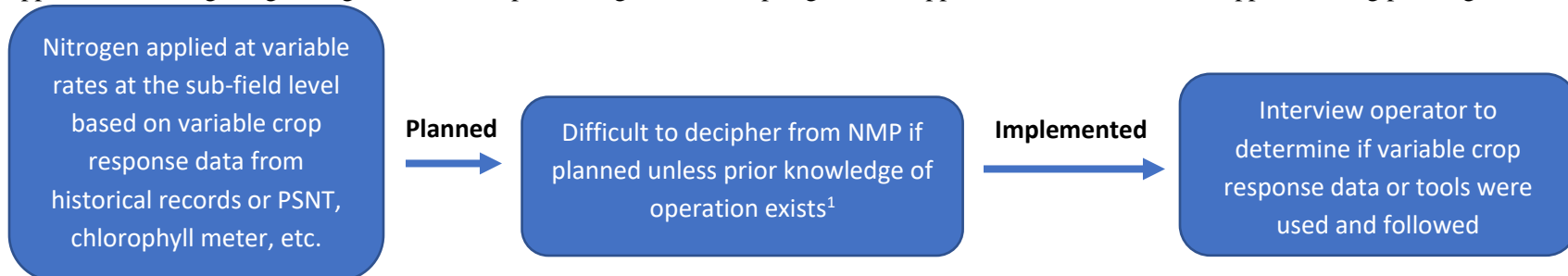


<sup>1</sup> NMP planners will typically zero out the N balance for all fields to show operators the maximum amount of fertilizer they can apply. If fields receive no manure application, they will still receive this credit as long as fertilizer is less than PSU recommendations.

<sup>2</sup> It is common for operators to not apply the maximum amount of nutrients, especially on crops such as hay and small grains. They will rely solely on the nutrient gained from manure.

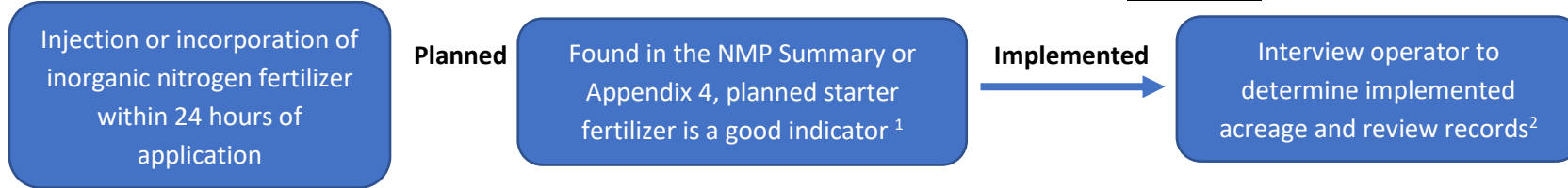


<sup>1</sup> Split applications of nutrients (manure and fertilizer) include manure applications, starter fertilizer, pre-emerge, and sidedress. Must complete at minimum 2 split applications during the growing season. Example: corn grain with a spring manure application, starter fertilizer applied during planting, and a final sidedress.



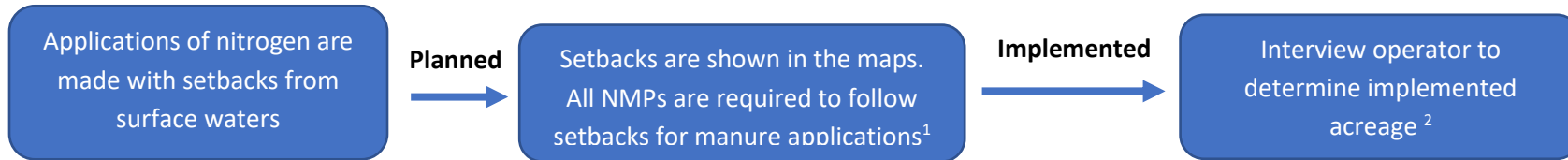
<sup>1</sup> Nitrogen must be applied at sub-field at variable rates based on crop data. This will only be found in the NMP if it is specifically mentioned in the NMP Summary Notes or the Operation Description in Appendix 2 that the operator is using these tools. It is not common that NMPs contain this type of information. Prior knowledge or interview with the operator will be the way to determine planned and implemented acreage

## 2. Nitrogen Supplemental NM BMP – Placement



<sup>1</sup> Injection or incorporation of inorganic fertilizer will mostly be common when starter fertilizers are used.

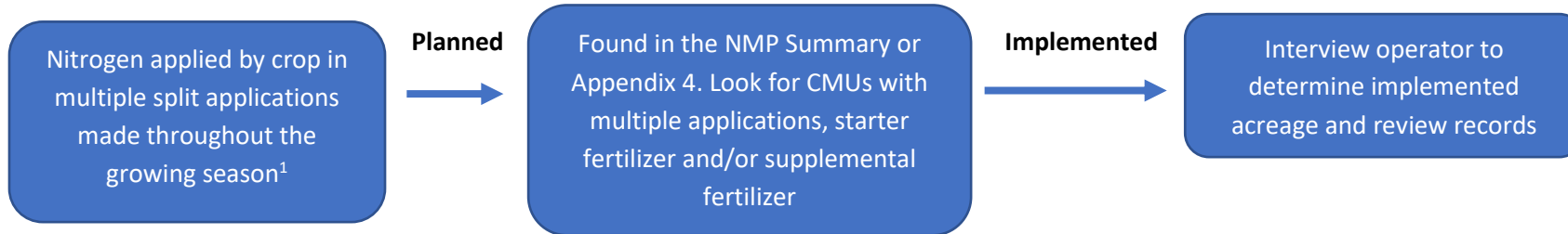
<sup>2</sup> Interview operator to determine how inorganic fertilizer is applied and determine if it fits the criteria.



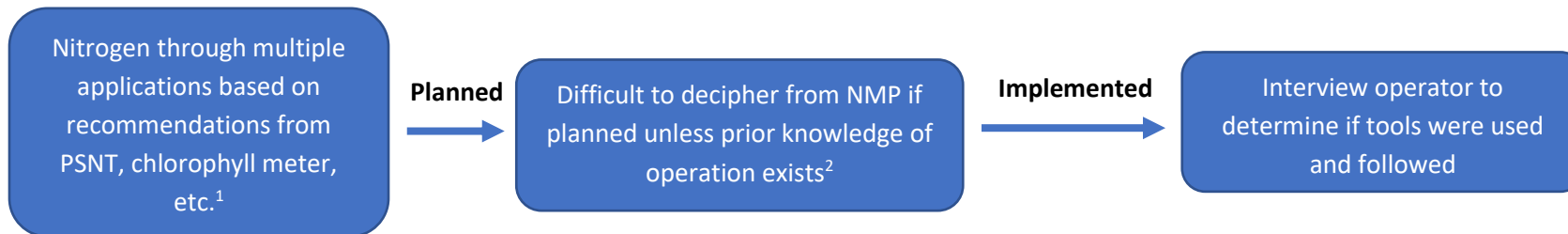
<sup>1</sup> Applications of nitrogen refer to both organic and inorganic sources of nitrogen (ex. manure and chemical fertilizer). Applications of both manure and fertilizers must follow Act 38 setback requirements (100 feet from surface water or 35-foot vegetative buffer) in order to receive the Supplemental NM BMP credit. Confirm with operator if they adhered to the setback requirements. All field acreage that has manure or fertilizer applied to it will qualify for credit if setbacks were followed. Example: The operation map shows several fields but there are no streams nearby or shown on the map. These fields still qualify for the credit because they are still technically adhering to the setback requirements.

<sup>2</sup> Example: An operator has 50 acres. One field of 5 acres has a setback of 100 feet from a stream. The operator adhered to the setback for manure per the Act 38 regulations but applied a starter fertilizer within the 100-foot setback for that stream. The farmer can only be credited with 45 acres of implementation for the N Placement Supplemental NM BMP. **The farmer is in compliance with regulations, but supplemental credit cannot be given. Supplemental NM BMPs should be thought of as going above and beyond basic water quality requirements.**

### 3. Nitrogen Supplemental NM BMP – Timing



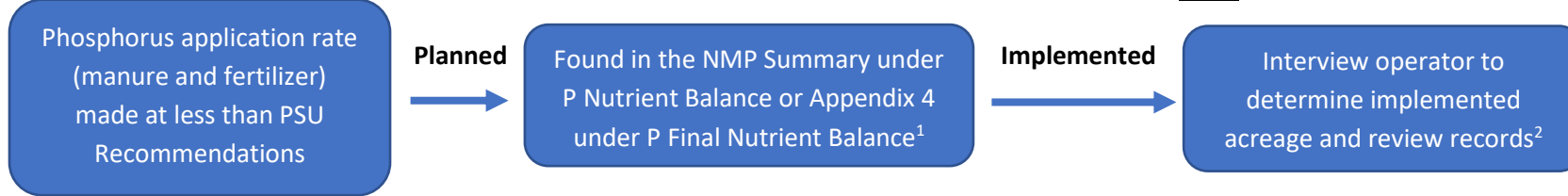
<sup>1</sup> Split applications of nutrients (manure and fertilizer) include manure applications, starter fertilizer, pre-emerge, and sidedress. Must complete at minimum 2 split applications during the growing season. This differs slightly than the N Rate Supplement NM BMP in that an overall lower application rate of what the crop requires is not needed to meet this requirement. Example: corn grain with a spring manure application, starter fertilizer applied during planting, and sidedress.



<sup>1</sup> This differs slightly than the N Rate Supplemental NM BMP in that there needs to be multiple applications (2 or more) of nitrogen (manure and/or fertilizer) but they do not need to be planned and applied at the sub-field level.

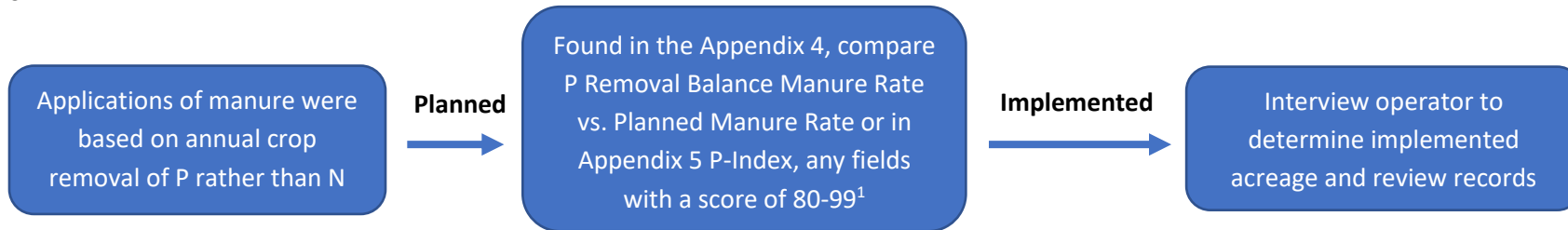
<sup>2</sup> This will only be found in the NMP if it is specifically mention in the NMP Summary Notes or the Operation Description in Appendix 2 that the operator is using these tools. It is not common that NMPs contain this type of information. Prior knowledge or interview with the operator will be the way to determine planned and implemented acreage.

#### 4. Phosphorus Supplemental NM BMP – Rate

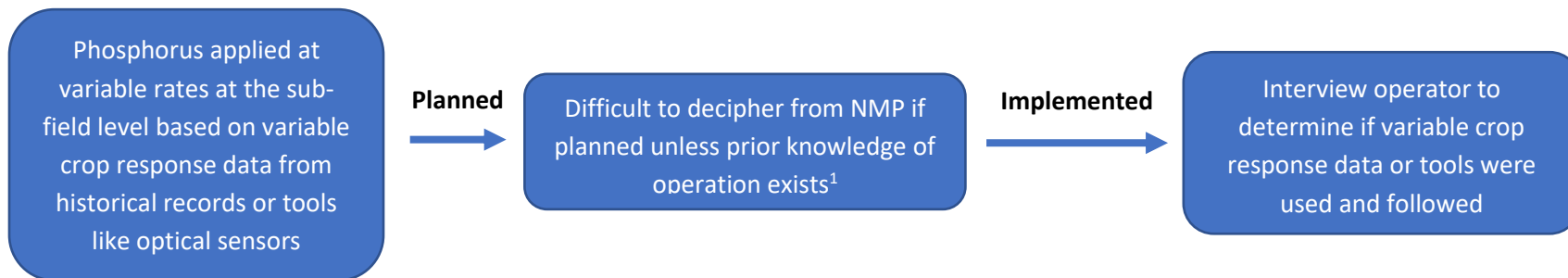


<sup>1</sup> The final P nutrient balance is quite often in excess of crop needs and is shown as a negative value. If P is shown as positive, NMP planners will typically zero out the P balance for all fields to show operators the maximum amount of fertilizer they can apply.

<sup>2</sup> It is common for operators to not apply the maximum amount of nutrients, especially on crops such as hay and small grains. They will rely solely on the nutrient gained from manure.

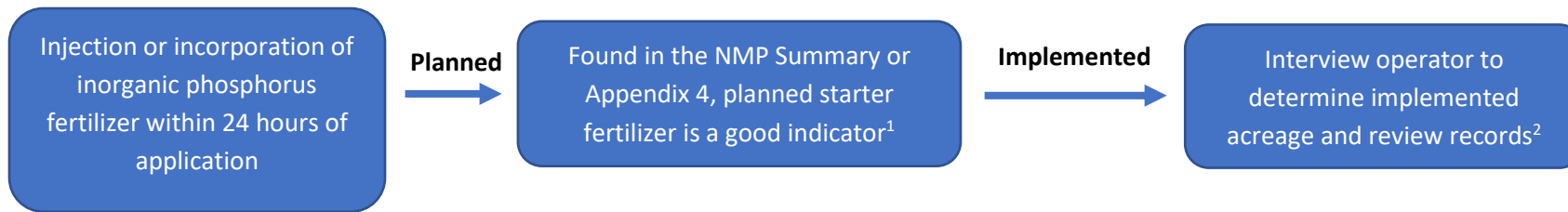


<sup>1</sup> This requirement can be satisfied even when a negative balance of P is shown in the Final Nutrient Balance as long as the Planned Manure Rate is less than or equal to the P Removal Balance Manure Rate. There are instances where the planned manure rate exceeds the P removal manure rate and the final nutrient balance of P is still positive (typically occurs with low P soil tests). This scenario would qualify for the first criteria for P Rate of P applied at less than PSU recommendations.



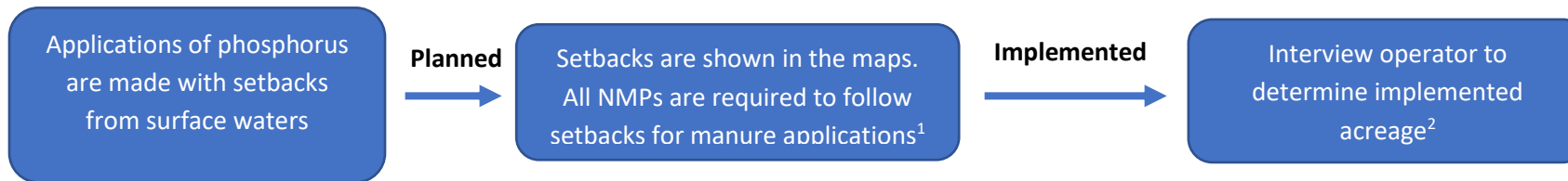
<sup>1</sup> Phosphorus must be applied at sub-field at variable rates based on crop data. This will only be found in the NMP if it is specifically mentioned in the NMP Summary Notes or the Operation Description in Appendix 2 that the operator is using these tools. It is not common that NMPs contain this type of information. Prior knowledge or interview with the operator will be the way to determine planned and implemented acreage.

## 5. Phosphorus Supplemental NM BMP – Placement



<sup>1</sup> Injection or incorporation of inorganic fertilizer will mostly be common when starter fertilizers are used.

<sup>2</sup> Interview operator to determine how inorganic fertilizer is applied and determine if it fits the criteria.

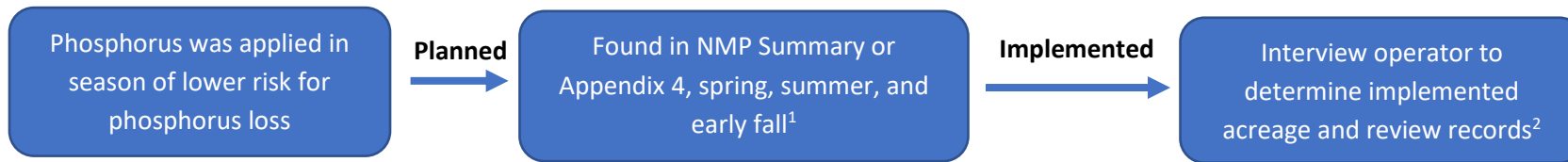


<sup>1</sup> Applications of phosphorus refer to both organic and inorganic sources of phosphorus (ex. manure and chemical fertilizer). Applications of both manure and fertilizers must follow Act 38 setback requirements (100 feet from surface water or 35-foot vegetative buffer). Confirm with operator if they adhered to the setback requirements. All field acreage that has manure or fertilizer applied to it will qualify for credit if setbacks were followed. Example: The operation map shows several fields but there are no streams nearby or shown on the map. These fields still qualify for the credit because they are still technically adhering to the setback requirements.

<sup>2</sup> Example 2: An operator has 50 acres. One field of 5 acres has a setback of 100 feet from a stream. The operator adhered to the setback for manure per the Act 38 regulations but applied a starter fertilizer within the 100-foot setback for that stream. The farmer can only be credited with 45 acres of implementation for the P Placement Supplemental NM BMP. **The farmer is in compliance with regulations, but supplemental credit cannot be given. Supplemental NM BMPs should be thought of as going above and beyond basic water quality requirements.**

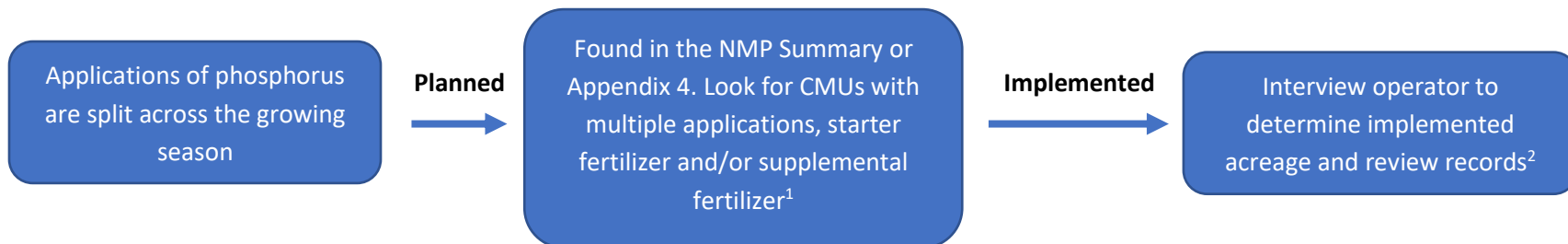


## 6. Phosphorus Supplemental NM BMP – Timing



<sup>1</sup> Phosphorus applications (manure and fertilizer) must occur in the spring, summer, or early fall in order to be credited the P Timing Supplemental NM BMP. Late fall and winter application do not qualify. Must be mechanically applied, no grazing.

<sup>2</sup> There is no date that can be given to separate early fall to late fall as each region of the state is different. The best way to determine when early fall ends and late fall begins is to think about when microbial action in the soil stops and a crop is no longer growing (think cover crop or grass hay).



<sup>1</sup> Split applications of nutrients (manure and fertilizer) include manure applications, starter fertilizer, pre-emerge, and sidedress. Must complete at minimum 2 split applications during the growing season.

<sup>2</sup> Example: corn grain with a spring manure application and starter fertilizer applied during planting.

## NMP Supplemental On-Site Status Review Report Example Interview

**Path of Credit**

**Path of No Credit**

### 1. N Rate:

- a. Did operator follow maximum application rate of manure?
  - i. **Yes**: Did operator apply the maximum rate of starter and/or supplemental nitrogen?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
  - ii. **No**: Did operator apply extra supplemental nitrogen to make up difference?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
- b. Did operator apply nitrogen by crop in multiple split applications throughout the growing season?
  - i. **Yes**: Did operator apply maximum amount of nitrogen?
    - 1. **Yes**: No credit given
    - 2. **No**: Are any acres that qualify for this criterion already captured in the first question (less than PSU recommendations)?
      - a. **Yes**: No extra credit can be given
      - b. **No**: Credit given
  - ii. **No**: Are any acres that qualify for this criterion already captured in the first question (less than PSU recommendations)?
    - 1. **Yes**: No extra credit can be given
    - 2. **No**: Credit given
- c. Did operator apply nitrogen at variable rates at the sub-field level using variable crop response data?
  - i. **Yes**: Are any acres that qualify for the criterion already captured in the first or second question (less than PSU recommendations or lower rate split applications)?
    - 1. **Yes**: No extra credit can be given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

### 2. N Placement:

- a. Did operator incorporate or inject inorganic nitrogen fertilizer within 24 hours of application?
  - i. **Yes**: Credit given
  - ii. **No**: No credit given

- b. Did operator make applications of manure following all setback requirements from surface water?
  - i. **Yes**: Did operator apply nitrogen fertilizer within that setback to supplement nitrogen since manure was not applied?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

**3. N Timing:**

- a. Did operator apply nitrogen by crop in multiple split applications throughout the growing season or was credit given for this criterion is question 1?
  - i. **Yes**: Credit given
  - ii. **No**: No credit given
- b. Did operator apply nitrogen through split applications based on recommendations from PSNT, chlorophyll meter, etc?
  - i. **Yes**: Are any acres that qualify for the criterion already captured in the first questions (split applications)?
    - 1. **Yes**: No extra credit given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

**4. P Rate:**

- a. Do manure application rates show an over-application or zeroed-out balance of phosphorus based on PSU recommendations?
  - i. **Yes**: No credit given
  - ii. **No**: Did operator apply maximum rate of starter and/or supplemental phosphorus?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
- b. Did operator apply manure based on annual crop removal of phosphorus
  - i. **Yes**: Are any acres that qualify for the criterion already captured in the first question (less than PSU recommendations)?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
  - ii. **No**: No credit given
- c. Did operator apply phosphorus at variable rates at the sub-field level using variable crop response data?
  - i. **Yes**: Are any acres that qualify for the criterion already captured in the first or second question (less than PSU recommendations or p-removal)?
    - 1. **Yes**: No extra credit can be given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

**5. P Placement:**

- a. Did operator incorporate or inject inorganic phosphorus fertilizer within 24 hours of application?
  - i. **Yes**: Credit given
  - ii. **No**: No credit given
- b. Did operator make applications of manure following all setback requirements from surface water?
  - i. **Yes**: Did operator apply phosphorus fertilizer within that setback to supplement phosphorus since manure was not applied?
    - 1. **Yes**: No credit given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

**6. P Timing:**

- a. When was phosphorus applied?
  - i. **Spring**: Credit given
  - ii. **Summer**: Credit given
  - iii. **Fall**: Was phosphorus applied in early of late fall?
    - 1. **Early fall**: Phosphorus applied prior to fall planting or were cover crops or grass hay still actively growing?
      - a. **Yes**: Credit given
      - b. **No**: This is late fall so no credit given
    - 2. **Late fall**: No credit given
  - iv. **Winter**: No credit given
- b. Did operator apply phosphorus through split applications during the growing season?
  - i. **Yes**: Are any acres that qualify for the criterion already captured in the first question (season of lower risk)?
    - 1. **Yes**: No extra credit given
    - 2. **No**: Credit given
  - ii. **No**: No credit given

**Guidance on How to Capture Manure Injection Acres in Nutrient Management Plans**

When reviewing a Nutrient Management Plan (NMP), there are a couple sections of the plan that may help to determine if a manure injection Best Management Practice (BMP) is being implemented. This guidance will over-view the various sections where this information may be able to be determined. An operator interview and review of records during the NMP on-site review as well as during annual status reviews is required to determine implementation.

The first section that will provide information of possible manure injection is in the NMP Summary. If the application management refers to “Incorporation the same day”, this may indicate manure injection. This can also be found in Appendix 4.

**NMP Summary**

**Appendix 4**

Application Season	Application Management
Spring	Spring: Spring or summer utilization-Incorporation the same day

Application Season: Management (Incorporation, cover crops, etc.)

Spring: Spring or summer utilization-Incorporation the same day

The second section that this information should be able to be determined is in Appendix 2 under the Operation Description as well as in the Manure Application Equipment Capacity and Practical Application Rates. The plan writer must describe in these sections how manure handling procedures and how manure is being applied. If manure is being injected, this should be described in these sections.

**Operation Description**

**Operation Description**

Animal types and numbers; cropland, ~~hayland~~ and pastureland acreage; farmstead acreage; crop rotation (crops, sequence of crops, and number of years for each crop); manure group management (contributing animal groups, collection, storage and **handling procedures**); each animal group on pasture (animal numbers, grazing season, hours per day on pasture, fields grazed, type and description of grazing management – continuous or rotational) composting (including mortality) management.

**Manure**

**Application Equipment Capacity and Practical Application Rates**

**Manure Application Equipment Capacity & Practical Application Rates**

Description of application equipment, practical application rates based on calibration and calibration method used, the data recorded during equipment calibration is to be retained on the farm. If applicable, name and Act 49 certification number of custom applicator.

All information above will help to determine if manure injection is planned in the NMP and planned acres for manure injection can be determined as well.

During the NMP on-site review and/or the annual status review, the operator will need to be interviewed and records reviewed to determine if manure injection occurred and how many acres of manure injection were implemented. It may be helpful to make notations on the maps of which fields had manure injection if it was not used on the entire operation. This will assist with recording the practice in the PracticeKeeper Database. A section to add implemented manure injection acres has been added to the Supplemental On-Site Status Review Report in order to assist with the data collection.

In order to report manure injection acres in the PracticeKeeper Database, the practice will need to be recorded as a BMP Instance and related to the appropriate NMP. When under the specific NMP in the PracticeKeeper Database, following the steps listed below:

1. Select Related BMPs on the tab to the left.
2. Click the blue Add New button in the upper right.
3. Search for and select “Injecting or incorporation manure” and click Create.
4. Draw the fields that this practice is implemented in. If fields are already created, then the Select feature can be utilized.
5. Go back to the BMP in fill in all required information:
  - a. General Tab:
    - i. Planned On – this will be when the plan was approved.
    - ii. Implemented On – the approximate or exact date that the manure injection occurred.
    - iii. Implemented Amount – the number of acres in this BMP Instance that the practice occurred on. Do not include the total amount of acres if the mapped fields do not contain all implemented acres if multiple BMP Instances will be created.
  - b. Measures Tab:
    - i. Click on the BMP under the Relate Land Units.
    - ii. Click Edit.
    - iii. Implemented Amount – the number of acres in this BMP Instance that the practice occurred on.
  - c. Inspections Tab;
    - i. Click the blue Add button.
    - ii. A new inspection will pop up.
      1. Planned Inspection Date – this can be the day that the NMP on-site review and/or annual status review was completed.
      2. Inspector Name – select who performed the inspection.
      3. Performed On – date the NMP on-site review and/or annual status review occurred.
      4. Meets Visual Indicators – select yes if operator confirmed during the interview that they injected manure and records confirm.
      5. Verified Amount – enter the number of acres that manure injection was implemented for this specific BMP Instance. This could differ from the Implemented Amount from year-to-year if the operator does not always inject manure consistently every year.

- iii. This inspection tab will need to be completed after every NMP on-site review and/or annual status review in order to have an annual accreditation of this practice. A new BMP Instance does not need to be created every year.
6. It is possible to have several fields listed under one BMP Instance, even if they are not drawn under the same polygon. When viewing the BMP Instance under the map, click the blue Edit button. At the bottom of the information on the left, click on Add Part. Additional fields can be drawn and added to this BMP Instance. This may be convenient when reporting the manure injection practice for an operation.

The collection of this manure injection data and recording into the PracticeKeeper Database is optional, but is highly encouraged, in order to give operators and agriculture full credit for the BMPs they are being implementing on their agricultural operations.

Date

Name<sup>1</sup>

Address<sup>2</sup>

Address<sup>2</sup>

RE: SCHEDULING A NUTRIENT MANAGEMENT PROGRAM ON-SITE STATUS REVIEW

Dear Name<sup>1</sup>

Pennsylvania State Conservation Commission (SCC) policy requires conservation districts to perform on-site Nutrient Management Status Reviews on all Concentrated Animal Operations (CAOs), and Concentrated Animal Feeding Operation (CAFOs) on an annual basis. Volunteer Animal Operations (VAOs) are required to meet this obligation at least once every three years. This letter is being sent to you requesting a time to schedule such a visit.

The purpose of the on-site status review is both regulatory and informational. The review is designed to give you an opportunity to discuss any questions or concerns you may have about the program, your Nutrient Management Plan (NMP), or your specific record keeping requirements. The status review will provide an opportunity to clarify any deficiencies, but it will also provide an opportunity for the [Name<sup>5</sup>] Conservation District to document your compliance with Act 38 (Pennsylvania's Nutrient and Odor Management Act). To facilitate this process, you will need to have your required records, along with your approved NMP, available for verifying at the review. The on-site visit will be followed up with a detailed report, documenting your compliance status

Your NMP writer is welcome to attend the on-site status review. However, if that is your desire, it will be your responsibility to work out the scheduling with your planner.

[Optional paragraph, remove if not used] [I have tried to contact you on XX, XX, etc. (dates of attempts to contact or letter dates) to schedule your annual on-site status review inspection but you have not responded to schedule your inspection. Therefore, Name<sup>1</sup> on-site status review inspection is scheduled for XXX (specify day and time). Please make yourself available on that date and time so we can complete your annual status review inspection. If you cannot meet on this date and time, please call me at least 5 days prior to this date so that we can reschedule to a date that meets your schedule.

Thank you for your cooperation with the conservation district, as well as, the Act 38 NM Program. To schedule your on-site Nutrient Management Status review, or if you have questions concerning this letter, please contact me at the district office at (xxx-xxx-xxxx<sup>3</sup>) by date<sup>4</sup> to set up a date for the status review.

Sincerely,

Name<sup>6</sup>

Title<sup>7</sup>

**Enclosures:**

Blank copy of the Nutrient Management On-Site Status Review Report

cc: File



Author of NMP<sup>8</sup>  
DEP if Operation is a CAFO

Name<sup>1</sup> = Name of owner / operator

Address<sup>2</sup> = Mailing address of the owner / operator

Phone<sup>3</sup> = District phone number and extension if applicable

Date<sup>4</sup> = Date Status review is requested approximately 3 weeks from receipt of this letter

Name<sup>5</sup> = Name of Conservation District

Name<sup>6</sup> = Name of reviewer

Title<sup>7</sup> = Title of reviewer

Author of NM Plan<sup>8</sup> = Person who wrote current NMP.

Date

Name<sup>1</sup>

Address<sup>2</sup>

Address<sup>2</sup>

RE: Nutrient Management Program On-site Status Review Follow-up Report

Dear Name<sup>1</sup>

This letter is sent to you as a follow up to my [Date<sup>3</sup>] site visit where I performed a Nutrient Management Status Review of your Act 38 (commonly referred to as Pennsylvania's Nutrient and Odor Management Act) Nutrient Management Plan (NMP, or plan), assessing the status of your implementation of your plan, and your compliance with Act 38. Attached to this letter is a copy of the status review report which outlines the findings from my visit.

As is indicated on the inspection report, you were found to be in compliance with your obligations under Act 38. Thank you for implementing your NMP, and for maintaining the records required for your animal operation under Act 38.

As a follow-up reminder, your current NMP will expire September 30, 20XX<sup>4</sup>.

You are strongly encouraged to contact a certified plan writer early in the expiring crop year to set up a date to perform your triennial review on your current plan. During the triennial review, you and your planner will review your current NMP, along with your current management of your crops and animals, and determine if your plan needs to either be updated or formally amended. By contacting the plan writer early, they will have a better opportunity to submit your plan update or amendment, depending on what the triennial review reveals, to the Name<sup>5</sup> County Conservation District by the recommended April 1, 20XX<sup>4</sup> submission date. In doing so, this should help to insure your updated / amended plan will be in place by October 1, 20XX<sup>4</sup> which the program recognizes as the start of the next crop year.

I would like to thank you for your cooperation with the Act 38 program. If you have any questions relating to this letter, please contact me at the conservation district office so that I can provide whatever additional information or direction you may need.

Sincerely,

Name<sup>6</sup>

Title<sup>7</sup>

Enclosures:

Copy of the Nutrient Management On-Site Status Review Report

cc: File

Author of NM Plan<sup>8</sup>

## Supplement 3

DEP if Operation is a CAFO

Name<sup>1</sup> = Name of operator

Address<sup>2</sup> = Mailing address of the operation

Date<sup>3</sup> = Date status review was performed

20XX<sup>4</sup> = Crop year plan expires

Name<sup>5</sup> = Name of Conservation District

Name<sup>6</sup> = Name of reviewer

Title<sup>7</sup> = Title of reviewer

Author of NM Plan<sup>8</sup> = Person who wrote current NMP.

Operator's Name

Supplement 3

Farm Name (if used in NMP)

Operator's address

Operator's address

Re: Acknowledging Non-Compliance / Compliance Status (choose one) of [Name<sup>1</sup>] Nutrient Management Plan

Dear Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

The [Name<sup>2</sup>] County Conservation District (\_\_\_ CCD, or District) performed an NMP Status Review of your operation on [Date<sup>3</sup>]. During this inspection, it was discovered that you did not implement your Nutrient Management Plan (NMP) properly regarding the following activity(ies): [Select all that apply]

- Planted different crop than what was planned
- Applied different manure than what was planned
- Applied manure in different season than what was planned

A calculation was performed to determine if any nutrients were over-applied due to the changes listed in this letter. It was found that you are **not out of compliance / out of compliance** (choose one) regarding the over-application of nutrients. Enclosed with this letter is the calculation.

Due to this change, you are required to obtain an **update / amend** (choose one) for your NMP. Please contact your plan writer immediately to begin the process of amending your NMP.

Please remember that it is your obligation to follow and implement your NMP as approved. If changes need to be made, please contact your plan writer or the [Name<sup>2</sup>] in advance so that all necessary updates or amendments to your NMP can be made.

Thank you for your cooperation with the Act 38 program. Please feel free to call me at \_\_\_-\_\_\_-\_\_\_\_\_ if you have any questions.

Sincerely,

John Doe [Name<sup>4</sup>]

Title

[Name<sup>2</sup>]

Enclosure:

Calculation determining that nutrients were not over-applied

cc: Author of plan

File

DEP if Operation is a CAFO

Name<sup>1</sup> = Name on NMP: operator's and / or farm name.

Name<sup>2</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>3</sup> = Date you performed the inspection

Name<sup>4</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager.

COMMONWEALTH OF PENNSYLVANIA

Send to: [RA-EPWaterPrograms@pa.gov](mailto:RA-EPWaterPrograms@pa.gov)DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF CLEAN WATER**NUTRIENT MANAGEMENT PROGRAM  
DELEGATION AGREEMENT****CERTIFICATION FOR PAYMENT**

(To be completed by Conservation District)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Agreement # \_\_\_\_\_

Vendor # \_\_\_\_\_

Quarterly Period: \_\_\_\_\_ to \_\_\_\_\_

## Budget Expenditures:

A. Salaries \$ \_\_\_\_\_

B. Benefits \$ \_\_\_\_\_

C. Travel Costs \$ \_\_\_\_\_

D. Equipment Costs \$ \_\_\_\_\_

E. Administrative Costs

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

\_\_\_\_\_ County \$ \_\_\_\_\_

Administrative Subtotal \$ \_\_\_\_\_

F. Other/Miscellaneous (from approved budget)

\_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL TO BE REIMBURSED BY THIS INVOICE** \$ \_\_\_\_\_

I confirm that all information for Attachment F, if applicable, has been entered into the PracticeKeeper Database for the quarter(s) included in this Certification for Payment.

I declare the above expenditures to be accurate.

District Official Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**DEP USE ONLY**Approved for Payment: \_\_\_\_\_  
DEP Representative Date

NOTE – This Form will be generated by PracticeKeeper

## ATTACHMENT H

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

## BUREAU OF CLEAN WATER

**NUTRIENT MANAGEMENT PROGRAM  
LEVEL 2 QUARTERLY REPORT**

County Conservation District: \_\_\_\_\_ Quarter Ending Date: \_\_\_\_\_

\_\_\_\_ I Certify: The NMA LEVEL 2 PLAN APPROVAL DATA (Attachment F) forms were submitted.

\_\_\_\_ I Certify: No NMA LEVEL 2 PLAN APPROVAL DATA (Attachment F) forms were required for this quarter.

A. Number of People Reached Through Outreach Efforts Throughout Quarter: \_\_\_\_\_

B. Number of Plans Submitted for Review to the District:

Number of new plans approved:	CAOs	_____
	Non-CAOs	_____

Number of plan updates/amendments of approved Act 38 plans:	CAOs	_____
	Non-CAOs	_____

Number of farms with verified non-act 38 plans:	# Farms	_____
---	---------	-------

C. Number of On-Site Status Reviews:

	CAO	CAFO- CAO	CAFO	VOLUNTEERS
Satisfactory				
Unsatisfactory				
Follow-Up				

D. Complaints:

Number Processed	_____
Compliance Required	_____
Referred to DEP	_____

### Guidance Document for Submitting the Information in Attachment F in PracticeKeeper V3 (PK3)

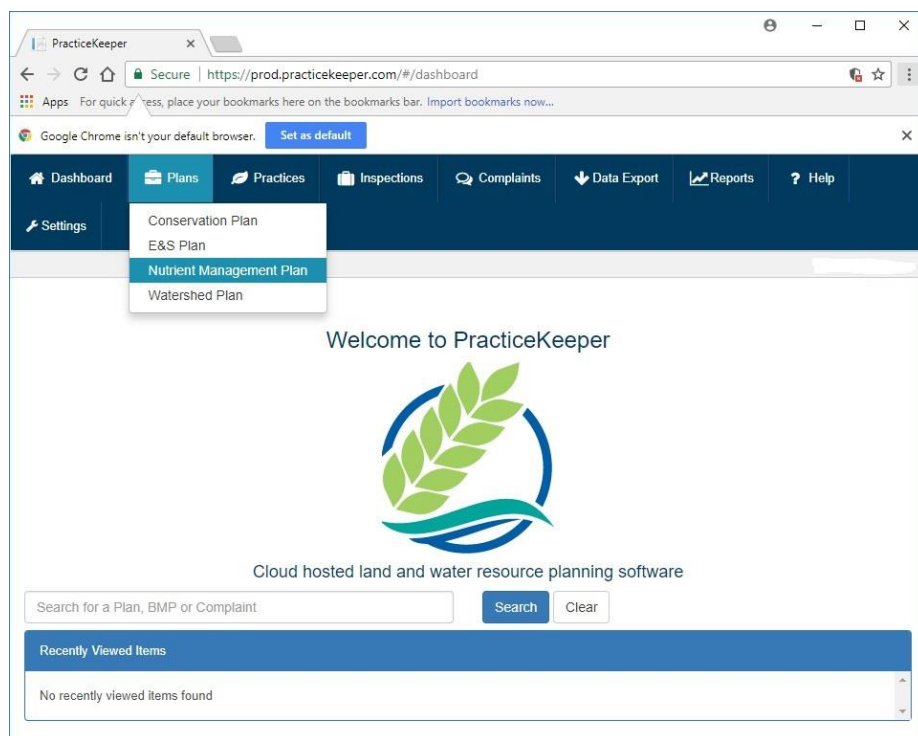
All Act 38 NMPs that were approved, updated, or withdrawn in the specified quarter, must be individually recorded in PK3. The following instructions include the minimum data necessary to complete the required reporting in Attachment F. Any additional information captured by other fields within the Nutrient Management Module of PK3 that the District would like to include may be recorded to enhance their in-house reporting.

To input an Act 38 NMP into PK3 and assure that all necessary information is recorded to complete Attachment F, follow the instructions below:

Open PracticeKeeper V3 Production in Chrome: <https://prod.practicekeeper.com/#/account/login>

Login to PracticeKeeper V3 using your email address and password.

Go to Plans->Nutrient Management Plan



Select "New"



## Supplement 4

Search...

Search

New

Identifier	Operator	Nutrient M	Nutrient M	Address	Municipality	Nutrient M	Submitted	Approved	Compliance	Performed	Next Inspection
NMP-00-0	Any Farm	Act 38	CAO	RIVER RD	NEWBERRY	Approved	01/03/20	02/07/20			

Columns

Page 1 of 1

View 1 - 1 of 1

## Supplement 4

PracticeKeeper

Secure | https://prod.practicekeeper.com/#/entitydetails/21930/37607084

Apps For quick access, place your bookmarks here on the bookmarks bar. Import bookmarks now...

Nutrient Management Plan: 37607084

Delete

General

Map

Participants

Related BMPs

Plan Funding

Generated Manure

Exported Manure

Imported Manure

Storage Facilities

Status Reviews

Attachments

Cancel Save

General

Identifier: NMP-00-00001

Plan Name: Test Farm

Nutrient Management Plan Type: Act 38

Nutrient Management Plan Subtype: CAO

Lifespan Years:

Nutrient Management Plan Status: Approved

Nutrient Management Plan Version: Original

Address: RIVER RD

Parcel Number: #####

County: York

Municipality: NEWBERRY

HUC: 020503051011

Watershed: SUSQUEHANNA RIVER

Watershed Group Code: 7G

Details

Submitted On:

Approved On: 02/07/2018

Updated On:

Withdraw Date:

Special Protection Waters: HQ

Total Operation Acres: 200.2

Total Owned Acres: 100.1

Total Rented Acres: 99

Animal Equivalent Units Per Acre: 2.78

Cancel Save

## Supplement 4

### 1. General

- a. Select “edit” button.
- b. Identifier will automatically populate
- c. Identify the plan name on the Act 38 NMP
- d. Identify the Nutrient Management Plan Type.
  - i. This should be “Act 38” for all Act 38 NMPs.
- e. Identify a subtype.
  - i. This can be CAFO/CAO, CAFO/VAO, CAO, or VAO.
- f. Identify a plan version.
  - i. This will either be an “original” plan or a “revision.” A revision is any plan that is not a new CAO.
- g. Address, parcel number, county, municipality, HUC, watershed, and watershed group code will auto-populate once the map is complete.
  - i. If the address auto-populates with an incorrect address, the user may manually override the address field.
- h. Identify the date approved.
- i. If the plan was withdrawn and is now inactive in the Act 38 Nutrient Management Program, the user must identify the withdraw date.
- j. Identify if the plan lies within the watershed of any special protection waters.
  - i. A null value is assumed “no.”
- k. Identify the total operation acres.
- l. Identify the total owned acres.
- m. Identify the total rented acres.
- n. Select “save” button.

### 2. Map

- a. Review the following tutorial on mapping:  
<https://www.youtube.com/watch?v=oVUkXUTB4jY&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs&index=3>
- b. To complete Attachment F, minimally, the home farm must be mapped; however, to assure that all parcels covered by the Act 38 NMP are recorded as having an NMP, all parcels covered by the NMP must be mapped.
- c. It is not necessary to split the parcel into crop management units (fields in the NMP), but it is advisable to locate all acres in the plan.
- d. It is advisable to have the mapped acres reflect the approximate acres in the NMP.
- e. It is advisable to add as much information as the specialists has, such as BMPs, fields, subfields, etc., as it will further build the database for future endeavors that the CD may be involved with.

### 3. Participants

- a. Review the following tutorial on adding participants to a plan:  
<https://www.youtube.com/watch?v=-jiHLjGhaVo&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs&index=4>
- b. The options for participants for Nutrient Management Plans are Operator, Owner of Rented Land, Plan Reviewer, and Planner
  - i. To complete Attachment F, a Plan Reviewer and Planner must be attached to the plan.
  - ii. Additionally, the Plan Reviewer and Planner NMP Certification Number must be completed when adding them to PracticeKeeper.

### 4. Related BMPs

- a. Review the following tutorial series on adding BMPs to a plan:
  - i. Related BMPs Tab:  
<https://www.youtube.com/watch?v=crWqonJ1yFE&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs&index=5>
  - ii. BMP General Tab:  
<https://www.youtube.com/watch?v=h6CVPclhu1g&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs&index=6>
  - iii. BMP Map Tab:

- <https://www.youtube.com/watch?v=2Wyy5AR7tWg&index=7&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs>
- iv. BMP Plans Tab:  
<https://www.youtube.com/watch?v=qblzME24VhI&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs&index=9>
- v. BMP Measures Tab:  
[https://www.youtube.com/watch?v=P\\_5jn-imjBw&index=11&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs](https://www.youtube.com/watch?v=P_5jn-imjBw&index=11&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs)
- vi. Spatially Related BMPs:  
<https://www.youtube.com/watch?v=tueG4Sv0xMM&index=13&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs>
- vii. Remove BMP:  
[https://www.youtube.com/watch?v=UiCmwCt\\_z2o&index=14&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs](https://www.youtube.com/watch?v=UiCmwCt_z2o&index=14&list=PLKV2MY9ICtUuW3p9y25DDzIwxCdvZh-Qs)

## Supplement 4

### b. Nutrient Management Plan Details

- i. Complete Planned Implementation Year, Estimated Acres Protected, and Amount.
- ii. Click “Save”

The screenshot shows a web browser window with the PracticeKeeper application. The URL is <https://prod.practicekeeper.com/#/entitydetails/21930/37607084/21906/37627289>. The navigation bar includes links for Dashboard, Plans, Practices, Inspections, Complaints, Data Export, Reports, Help, and Settings. The main header identifies the user as Pennsylvania Department of Environmental Protection (PADEP). Below the header, the Bmp Instance is 37627289, with a Back button. The left sidebar lists various sections: General, Map, Conservation Plan Details, Erosion & Sediment Plan Details, Nutrient Management Plan Details (selected), Watershed Plan Details, Plans, Participants, Measures, Inspections, and Attachments. The main content area is titled 'Nutrient Management Plan Details' and contains the following fields: Planned Implementation Year (2019), Estimated Acres Protected (30), Amount (1), and a Notes field. There are Cancel and Save buttons at the top and bottom of the form.

### c. Click “Back” to go back the NMP.

5. To complete Attachment F, the Plan Funding Tab can be ignored.

### 6. Generated Manure

- a. Click “Add Entry”
- b. Select “Animal Type”
- c. Select “Animal Subtype”
- d. Enter Quantity (Number of animals in group)
- e. Enter Animal Equivalent Units
- f. Enter Manure Generated
- g. Enter Manure Exported
- h. Enter Manure Measurement Unit
- i. Enter Manure Test Date
- j. Enter Percent Solids
- k. Enter Percent Moisture (If known)
- l. Enter Total N
- m. Enter Ammonia N (If known)
- n. Enter Total P
- o. Enter Water Soluble P (If known)
- p. Enter Total K
- q. Click “Save”

## Supplement 4

The screenshot shows the PracticeKeeper web application interface. The browser address bar displays the URL: <https://prod.practicekeeper.com/#/entitydetails/21930/37607084>. The navigation bar includes links for Dashboard, Plans, Practices, Inspections, Complaints, Data Export, Reports, Help, and Settings. The main header identifies the user as Pennsylvania Department of Environmental Protection (PADEP).

The page title is "Nutrient Management Plan: 37607084". The left sidebar contains a list of tabs: General, Map, Participants, Related BMPs, Plan Funding, Generated Manure (selected), Exported Manure, Imported Manure, Storage Facilities, Status Reviews, and Attachments.

The "Add Generated Manure" form contains the following fields:

- Animal Type: Chickens-Broiler (dropdown)
- Animal Subtype: Large: 0-53 days (dropdown)
- Quantity: 60000 (text input)
- Animal Equivalent Units: 213 (text input)
- Manure Generated: 777.5 (text input)
- Manure Exported: 777.5 (text input)
- Manure Measurement Unit: Tons (dropdown)
- Manure Test Date: 02/07/2018 (text input)
- Percent Solids: 75 (text input)
- Percent Moisture: (text input)
- Total N: 66 (text input)
- Ammonia N: (text input)
- Total P: 63 (text input)
- Water Soluble P: (text input)
- Total K: 47 (text input)

At the bottom of the form are "Cancel" and "Save" buttons.

r. Repeat for each Animal Group

### 7. Exported Manure

- a. If the NMP does not include export, the Exported Manure Tab can be ignored.
- b. If the NMP includes export, follow the instructions below
  - i. Click "Add Entry"
  - ii. Enter "Importer Name"
  - iii. Enter Importer Address
  - iv. Enter Importer State
  - v. Enter Importer County
  - vi. Select Animal Type
  - vii. Select Animal Subtype
  - viii. Enter Manure Imported (Amount)
  - ix. Select Measurement Unit
  - x. Enter Acres Available for Manure
  - xi. Select the appropriate answer to "Is out of the CB (Chesapeake Bay) Watershed"
  - xii. Click Save
  - xiii. Repeat for each importer and/or manure type if a single importer is accepting more than one manure type.

The screenshot shows a web browser window with the URL <https://prod.practicekeeper.com/#/entitydetails/21930/37607084>. The page title is "Add Exported Manure". On the left is a sidebar with a menu containing: General, Map, Participants, Related BMPs, Plan Funding, Generated Manure, Exported Manure (highlighted), Imported Manure, Storage Facilities, Status Reviews, and Attachments. The main form area contains the following fields:

- Importer Name:
- Importer Address:
- State:
- County:
- Importer Phone:
- Animal Type:
- Animal Subtype:
- Manure Imported:
- Manure Measurement Unit:
- Agreement Date:
- Total Cropland:
- Acres Available For Manure:
- Manure Generated By Importer:
- Is Out of CB Watershed:
- Other Manure Imported:

At the bottom of the form are two buttons: "Cancel" and "Save".

## Supplement 4

### 8. Imported Manure

- a. If the NMP does not include imported manure, the Imported Manure Tab can be ignored.
- b. If the NMP includes imported manure, follow the instructions below:
  - i. Click “Add Entry”
  - ii. Select Animal Type
  - iii. Select Animal Subtype
  - iv. Enter Amount
  - v. Select Manure Measurement Unit
  - vi. Click “Save”
  - vii. Repeat for each imported manure type

Nutrient Management Plan: 37607084

General

Map

Participants

Related BMPs

Plan Funding

Generated Manure

Exported Manure

**Imported Manure**

Storage Facilities

Status Reviews

Attachments

### Add Imported Manure

Animal Type:

Animal Subtype:

Amount:

Manure Measurement Unit:



## 9. Storage Facilities

- a. If the NMP does not include existing waste storage facilities, the Storage Facilities Tab may be ignored.
- b. If the NMP includes existing waste storage facilities, follow the instructions below:
  - i. Click “Add Facility”
  - ii. Enter Name
  - iii. Enter Description if desired
  - iv. Enter Capacity
  - v. Enter Measurement Unit
  - vi. Click “Save”
  - vii. Repeat for each existing waste storage facility

Nutrient Management Plan: 37607084

General  
Map  
Participants  
Related BMPs  
Plan Funding  
Generated Manure  
Exported Manure  
Imported Manure  
**Storage Facilities**  
Status Reviews  
Attachments

### Add Facility

Name:

Description:

Capacity:

Measurement Unit:

## 10. Attachment F Report - A copy of Attachment F can be generated through PracticeKeeper

- a. Click on Reports → Standard Reports

PracticeKeeper x

Secure | <https://prod.practicekeeper.com/#/entity/21930>

Apps For quick access, place your bookmarks here on the bookmarks bar. [Import bookmarks now...](#)

Dashboard Plans Practices Inspections Complaints Data Export **Reports** Help Settings

Pennsylvania Department of Environmental Protection (PA DEP)

Standard Reports

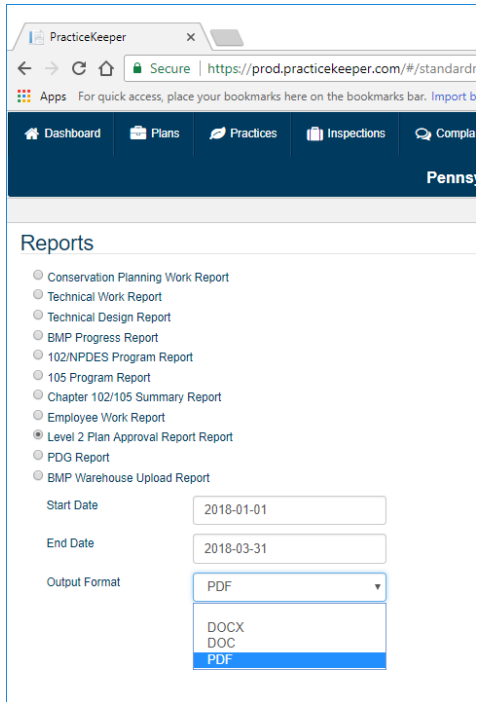
Search... Search New

Identifier	Operator	Nutrient M	Nutrient M	Address	Municipal	Nutrient M	Submitted	Approved	Compliance	Performed	Next Inspe
<input type="text" value="x"/>		<input type="text" value="x"/>	<input type="text" value="x"/>	<input type="text" value="x"/>	<input type="text" value="x"/>	<input type="text" value="x"/>	<input type="text" value="x"/>	<input type="text" value="x"/>			
NMP-00-00		Act 38	CAO	any addre		Approved	01/08/20	03/06/20			
NMP-00-00	Frank Schr	Act 38	CAO	620 SAND FAIRVIEW		Approved	02/01/20	04/02/20			
NMP-00-00	Any Farme	Act 38	CAO	RIVER DR NEWBERRY		Approved	01/03/20	04/09/20			

Columns Page 1 of 1 25 View 1 - 3 of 3

- b. Select “Level 2 Plan Approval Report”
- c. Select the Start Date for the Report (Beginning of reporting quarter)

- d. Select the End Date for the Report (End of reporting quarter)
- e. Select the chosen output format (PDF will be the most frequently used for this report)



PracticeKeeper

Secure | <https://prod.practicekeeper.com/#/standardr>

Apps For quick access, place your bookmarks here on the bookmarks bar. [Import b](#)

Dashboard Plans Practices Inspections Compliance

Pennsylvania

### Reports

- ☐ Conservation Planning Work Report
- ☐ Technical Work Report
- ☐ Technical Design Report
- ☐ BMP Progress Report
- ☐ 102/NPDES Program Report
- ☐ 105 Program Report
- ☐ Chapter 102/105 Summary Report
- ☐ Employee Work Report
- ☒ Level 2 Plan Approval Report Report
- ☐ PDG Report
- ☐ BMP Warehouse Upload Report

Start Date

End Date

Output Format

DOCX  
DOC  
PDF

- f. Click “Download”
- g. This will generate the Attachment F Forms for all plans that were approved, updated, or withdrawn between the chosen dates.
- h. The District should maintain a hard and/or digital copy of the Attachment F Forms generated for the reporting quarter.

**NOTE – This Form will be generated by PracticeKeeper****Attachment F**

Page \_\_\_\_ of \_\_\_\_

**NUTRIENT MANAGEMENT ACT**  
**LEVEL 2 PLAN APPROVAL DATA**  
 (Complete a separate page for each approved plan)

I. Operation Name \_\_\_\_\_ County Code \_\_\_\_\_

Approval Date \_\_\_\_\_ Date Plan Withdrawn from Program (If applicable) \_\_\_\_\_

Original Plan or Revision (P/R) \_\_\_\_\_

CAFO Site Name (If applicable) \_\_\_\_\_ CAO (Yes/No) \_\_\_\_\_

Watershed Code (No. & Letter) \_\_\_\_\_ Special Prot. Waters (HQ/EV/None) \_\_\_\_\_

Plan Author \_\_\_\_\_

Author's NMS Cert. Number \_\_\_\_\_

Plan Reviewer \_\_\_\_\_

Reviewer's Cert. Number \_\_\_\_\_

**II. Acreage Table**

Acreage	Owned	Rented
Total Plan Acres		
Nutrient Application Acres		

**III. Animal Manure Table**

Animal Type	Animal Subgroup	AEUs	Annual Manure Generated (Tons / Gallons)	Exported Manure (Tons / Gallons)	Manure Test Date	Percent Solids	Percent Moisture	Total N	Ammonia N	Total P	Water solubl (if availa

**IV. Imported Manure:**

Animal Type	Tons or Gallons /Yr. Imported

**V. Exported Manure:**

NBS Operation or Broker Name	Acres	Manure Type	Tons to Operation or Broker	Gallons to Operation or Broker	Receiving County	Receiving State	Out of CB watershed (yes / no)

**VI. Manure Storage  
Volume**Unit 1: \_\_\_\_\_ cu. ft. or  
\_\_\_\_\_ gallonsUnit 2: \_\_\_\_\_ cu. ft. or  
\_\_\_\_\_ gallons**VII. BMP Implementation Table**

Practice Code	Units	Estimate Acres	Impl. Quarter	Impl. Year

**NOTE – This Form will be generated by PracticeKeeper**

Attachment G

Page \_\_\_\_ of \_\_\_\_

## MANURE MANAGEMENT REPORTING (Chapter 91)

Conservation District: \_\_\_\_\_ Quarter Ending: \_\_\_\_\_

---

### **I.**

Number of Manure Management Plan (MMP) outreach activities conducted: \_\_\_\_

Provide a short description of each outreach activity:

---

---

---

- Number of farmers attending (All outreach activities): \_\_\_\_
- Number of private sector planners/consultants at (all outreach activities): \_\_\_\_

---

### **II.**

Number of MMP training activities: \_\_\_\_

Provide a short description of each training activity:

---

---

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- Number of farmers attending (all training activities): \_\_\_\_
- Number of private sector planners/consultants at (all training activities): \_\_\_\_

---

### **III.**

Number of Farmers receiving MMP assistance:

- On-farm Planning assistance: \_\_\_\_
- On-farm Technical assistance: \_\_\_\_
- MMP voluntary verifications: \_\_\_\_
- Conservation District developed MMPs: \_\_\_\_

Provide a short description of the on-farm assistance provided:

---

---

---

---

**NOTE – This Form will be generated by PracticeKeeper****ACT 49 COMMERCIAL MANURE HAULER & BROKER PROGRAM  
QUARTERLY REPORT****NUTRIENT BALANCE SHEET SUBMISSION/REVIEW DATA**

County Conservation District: \_\_\_\_\_ Quarter Ending Date: \_\_\_\_\_

\_\_\_\_ No ACT 49 NUTRIENT BALANCE SHEETs were submitted to the conservation district during this quarter.

**A. Number of Act 49 Nutrient Balance Sheets (NBS) for importing operations in the county submitted to the district:** \_\_\_\_\_*Please provide NBS information for importing operations submitted by broker in the chart below.***B. Broker Manure Summary Chart:**

Broker Name & Certification Number	NBS Importing Operation Name	Acres	Manure Type	Amount to Importing Operation		Importing Operation Location		CBay Watershed	Exporting Operation Location		Review Performance	Follow-up
				Tons	Gallon	County	State	(Y/N)	County	State	(Y/N)	(Y/N)

**NOTE – This Form will be generated by PracticeKeeper**

## **NUTRIENT BALANCE SHEET SUBMISSION REPORT**

### **DIRECTIONS**

- I. Number of Act 49 NBSs submitted to the conservation district – Please indicate the number of Act 49 NBSs that were submitted by brokers for importing operations in the district's county during the quarter.
- Include information on an Act 49 NBS submitted by the broker for an importing agricultural operation for land application of manure on that operation arranged by the broker.*
- DO NOT include information on Act 49 NBSs associated with a CAO or CAFO Act 38 nutrient management plan.*
- II. Broker Manure Summary Chart.
1. Fill in the full name and certification number for the broker who wrote and/or submitted the NBS (*Information available on the NBS cover sheet*).
  2. Fill in the formal name for the operation (e.g. landowner/operator or business) for which the NBS was written and/or submitted by the broker (*Information available on NBS cover sheet*).
  3. List acres planned for land application of manure; manure type by general animal type (e.g. beef, dairy, equine, poultry, swine or other); tons or gallons of brokered manure for land application (*Available on NBS worksheets*),
  4. List the county (in or out of state, if known) and state for the location of the importing operation. (*Information can be determined from importing operation address on NBS cover sheet*).
  5. Indicate (*Yes or No*) if the importing operation is in the Chesapeake Bay Watershed (*Information can be determined from importing operation address on NBS cover sheet*).
  6. List the county and state for the location of the exporting operation. (*Information available on NBS cover sheet*).
  7. Indicate (*Yes or No*) if a submitted NBS was reviewed and if comments and/or follow-up (written or verbal) was completed by the district. *Special Note: The district should only review NBS submitted for an importing operation in the district's county.*

# **Record Keeping Materials**



## Act 38 Record Keeping Checklist

### Pennsylvania's Nutrient Management Plans

The following records are required to be maintained on the operation:

- \_\_\_\_\_ Annual Manure Production - annually; total amount of manure produced for each manure group
- \_\_\_\_\_ Manure Test Results - annually; manure analysis results for each manure group
- \_\_\_\_\_ Soil Test Results - current within 3 years; current soil test results for each crop management unit
- \_\_\_\_\_ Land Application of Nutrients - annually; location (ID) & number of acres, date of application, and application rate for each crop management unit
- \_\_\_\_\_ Crop Yields - annually; approximate yield levels for each crop management unit
- \_\_\_\_\_ Uncollected Manure Information - annually; number of animals, number of days, and average number of hours per day on each pasture unit
- \_\_\_\_\_ Manure Export Sheets - completed manure export sheets for each importing operation (copy to importer; copy retained on exporting operation; small quantity exclusion only requires name, amount of manure transferred and date)
- \_\_\_\_\_ Exported Manure Applied Under Exporter Direction - annually; application location (ID and notation of observation of application setbacks), number of acres, date of application, application methods, and application rate
- \_\_\_\_\_ Exported Manure Through Broker - Broker Responsible - annually; broker is responsible for application records; application location (ID and notation of observation of application setbacks), number of acres, date of application, application methods, and application rate and provide copies to the importing operations
- \_\_\_\_\_ Alternative Manure Utilization Other Than Manure Export - annually; amount and use of manure

## Soil Testing Record

---

Act 38 regulations require that soil tests for each crop management unit or field be current within the last three years. To fulfill Act 38 record keeping requirements a file of all soil test reports must be maintained. In addition, the following table can be used (optional) to summarize the soil test results for easier reference and use.

CMU/Field ID	Lab	Date Sampled	Soil Test Levels			Soil Test Report Levels <sup>1</sup> (If not in ppm)	
			pH	ppm Mehlich- 3 P	ppm K	Phosphorus (lbs. P or lbs. P <sub>2</sub> O <sub>5</sub> )	Potassium (lbs. K or lbs. K <sub>2</sub> O)

<sup>1</sup> Complete only if laboratory did not report phosphorus and potassium levels in ppm. Indicate units used on the soil test report.

## Manure Sampling Record

---

Act 38 regulations require annual sampling and analysis of each manure group listed in the nutrient management plan. To fulfill Act 38 record keeping requirements a file of all manure analysis reports must be maintained. In addition, the following table can be used (optional) to summarize the manure analysis results for easier reference and use.

Manure Group	Lab	Date Sampled	Total Nitrogen (N)	Ammonium N (NH <sub>4</sub> -N)	Total Phosphate (P <sub>2</sub> O <sub>5</sub> )	Total Potash (K <sub>2</sub> O)	Percent Solids	P Source Coefficient Value
			Note lb./ton or lb./1000 gal					

## Manure Group Application Record

Act 38 regulations require an annual accounting of the total amount of manure produced for each manure group listed in the nutrient management plan. In addition, the following land application information must be recorded annually: application location, number of acres, date of application, and application rate for each crop management unit.

<b>Manure Group</b>		<b>Date</b>		<b>Manure Source/Location</b>	
<b>Spreader ID <sup>1</sup></b>		<b>Spreader Calibrated Rates</b>			
<b>Temperature <sup>1</sup></b>		<b>Wind Speed &amp; Direction <sup>1</sup></b>		<b>Weather Conditions <sup>1</sup></b>	
<b>Applicator <sup>1</sup></b>			<b>Notes</b>		

<sup>1</sup> Optional information not required by Act 38 regulations.

Field Information			Manure Application Information			
CMU/Field ID	Field Acres	Acres Covered	Application Rate	Application Method	Days to Incorporation (if < 7 days)	Total Amount Applied

## Field Crop Record

**Act 38 regulations require an annual accounting of the application rate of nutrients and the resulting crop for each crop management unit.**

[illegible]

## Pasture Uncollected Manure Record

---

Act 38 regulations require that the number of animals, number of days and average number of hours per day be recorded for each pasture unit listed in the nutrient management plan.

Pasture ID	Period Dates	Animal Type	Number of Animals	Average Weight	Number of Days	Average Number of Hours Per Day

## Manure Export Sheet

### Section 1

Name of Operation Exporting Manure \_\_\_\_\_

Name of Manure Importer/Broker \_\_\_\_\_

Address of Importer/Broker \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

County \_\_\_\_\_ Township \_\_\_\_\_

Type of Manure Transferred \_\_\_\_\_ (animal type)

Check here if manure will not be land applied •

Analysis of Manure      N: \_\_\_\_\_ P<sub>2</sub>O<sub>5</sub>: \_\_\_\_\_ K<sub>2</sub>O: \_\_\_\_\_

(Units: lbs./ton • lbs./100 gal • lbs./1,000 gal • other \_\_\_\_\_)

	Planned	Actual	
Total Amount of Manure Transferred	_____	_____	(tons or gal)

Date(s) Manure was Transferred \_\_\_\_\_

Check here if Importer has received manure informational packet •

### Section 2

(To be completed when the exporter, or a person working under the direction of the exporter applies the manure.)

Applied to: \_\_\_\_\_ (field or crop group)

Number of Acres \_\_\_\_\_

Rate of Application \_\_\_\_\_

**Note: All manure applications within Pennsylvania shall be in accordance with the accepted practices described in the Pennsylvania Department of Environmental Protection Manure Management Manual. When manure application practices do not conform to those described in the Manual, DEP approval is required.**

### Summary of MANURE TRANSFERS (Optional, see §83.301c)

Name of operator exporting manure \_\_\_\_\_

Date \_\_\_\_\_

Time Frame of Report \_\_\_\_\_

Transfer Date	Name of importer or broker	Type of manure *1	Amount (Tons or gal)	No. of Acres *2	Application Rate *2 (per ac)

\*1 = i.e. dairy, beef, broiler, swine, etc.

\*2 = to be completed only if exporter applies the manure

<b>Manure type:</b>	<b>Analysis:</b>	<b>Units:</b>
_____	N: _____ P: _____ K: _____	_____
_____	N: _____ P: _____ K: _____	_____
_____	N: _____ P: _____ K: _____	_____
_____	N: _____ P: _____ K: _____	_____



## **In-Field Manure Stacking Requirements**

This guidance applies to non-emergency related manure stacks that will remain in a field for an extended period of time.

This guidance applies to all participating Act 38 farms whether VOA, CAO, or CAFOs stacking manure for an extended period of time, and for those stacking manure from Act 38 farms on imported sites.

The regulations call for the implementation of Best Management Practices (BMPs) relating to in-field manure stacking. Guidance on how to meet that requirement is as follows:

1. The regulation states that the land application of the stacked manure shall occur within 120 days of stacking or by the next growing season, whichever is less.
2. For situations where stacks will be placed in fields with the expectation that it will be there for longer than 120 days, the stack shall be covered with an impermeable cover within 3 weeks of placing the stack in the field. Covering of manure stacks with an impermeable cover will eliminate the need to apply the manure within the 120 day, or by the next growing season, limitation.
3. The regulation also states that the location of in-field manure stacking sites must be identified on the nutrient management plan or nutrient balance sheet maps.
4. The stacks should be rotated so that stacking will only occur once every 4 years on a specific manure stacking pile footprint.
5. Stacked piles should be stacked in a cone or windrow shape so as to shed rainwater. This shape limitation would not be necessary if, upon stacking, the stack will be covered with an impermeable cover.
6. Stacks should be setback 100 feet from streams (intermittent and perennial), lakes, ponds, open existing sinkholes, and active water wells.
7. Stacks should not be located in water concentration areas, such as a swale, ditch, or waterway.
8. Stacks should not be located on areas that have excessively drained soils. This limitation would not be necessary if, upon stacking, the stack will be covered with an impermeable cover.
9. Stacks should not be located within 3 feet of the seasonal high-water table.
10. Stacks should not be located above subsurface drain tiles. This limitation would not be necessary if, upon stacking, the stack will be covered with an impermeable cover.
11. Stacking sites should not have a slope of greater than 8%.
12. Stacking sites with slopes between 3 and 8% should not be located further than 100 feet from the top of the slope unless a diversion is constructed of soil above the stack.
13. The manure must be dry enough to allow for stacking at least 4 feet in height. When stacking on the application field, the volume needs to be limited to the amount that can be spread on the fields nearby to the stack.

The above criteria only address situations where manure is stacked in a field in order to facilitate manure application to those fields where the manure is being stacked. This guidance does not pertain to areas used for the composting of manure or dead animals.

### **Withdrawal from Review Acknowledgment**

Date: \_\_\_\_\_

Operators (and/or Planners) Name<sup>1</sup>

Operators (and/or planners) Address<sup>2</sup>

Operators (and/or planners) Address<sup>2</sup>

Re: Withdrawal of \_\_\_\_\_ [NMP Name] NMP

Dear \_\_\_\_\_ (Operator or Planners name<sup>1</sup>),

The \_\_\_\_\_ [Name<sup>3</sup>] County Conservation District formally acknowledges receipt of your email/ letter [Choose] dated \_\_\_\_\_ [Date<sup>4</sup>] which states “\_\_\_\_\_ [Include the language that states to remove the NMP from the review process].”

Based upon this request, the [NMP name] for crop year(s) \_\_\_\_\_ [add the crop years that the NMP was written for] will be withdrawn from consideration and returned to you.

I would like to remind you of the program protocol for withdrawing an Act 38 NMP from the review process, as indicated below, and as listed in the Nutrient Management Act Program Technical Manual.

The Nutrient Management Act Program Technical Manual states that a plan shall be resubmitted in the following manner:

Section V Plan Review and Implementation, Page 5:

Provisions for withdrawing of a plan under review.

The following guidance is provided for CAO, CAFO and VAO plans undergoing review under the Act 38 program. It should be noted that CAOs and CAFOs have an obligation to maintain a valid and current nutrient management plan for the entire life of their operation. Therefore, should a mandated Act 38 participating farm withdraw a plan that is under review, *they are required to resubmit a new plan within 30 days of withdrawal, in order to demonstrate a desire to maintain compliance.*

**As directed by the Nutrient Management Technical Manual, please re-submit an Act 38 NMP for the \_\_\_\_\_ [NMP Name] farm operation by \_\_\_\_\_ [Date<sup>5</sup>].**

If there are any questions, call our office at \_\_\_\_\_ [Phone<sup>6</sup>].

Sincerely,

Name<sup>7</sup>

Title

Name<sup>3</sup> County Conservation District

Cc: **Planner or Operator (Whomever the letter is not addressed to)**  
DEP if Operation is a CAFO

Operators (and/or Planners) Name<sup>1</sup> – This will depend on whom submitted the written request to pull the NMP from review

Operators (and/or planners) Address<sup>2</sup> - This will depend on whom submitted the written request to pull the NMP from review

Name<sup>3</sup> – Your conservation District Name

Date<sup>4</sup> – Date you receive the correspondence

Date<sup>5</sup> – 30 days after this letter is sent

Phone<sup>6</sup> – Your office phone number

Name<sup>7</sup> - Your Name

**Nutrient Management Act Program Withdrawal - Volunteer**

Date \_\_\_\_\_

\_\_\_\_\_ County Conservation District  
District Address

Dear District Chairman,

Effective **(Date)**, I wish to formally withdraw from participation in the PA Nutrient Management Act Program (Program).

I understand that, beginning on the date listed above, I forfeit the limited liability protection that has been provided by the State Conservation Commission (Commission), as well as my eligibility to receive funding from any Nutrient Management Act financial assistance program, until I again develop an approved nutrient management plan under the Program.

Sincerely,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Signature)  
(Name - Printed or Typed)  
(Operation Name)

Date = Effective Date when operation wishes to withdraw from the program, may be immediately or the end of the crop year for which the NMP is valid (September 30, 20XX)

**Sample - Nutrient Management Act Program Withdrawal CAO**

Date

(Name<sup>1</sup>) County Conservation District

Address

Address

RE: Withdrawal from Nutrient Management Act Program

Dear District Chairman,

Effective (Date<sup>2</sup>), (Operator's Name<sup>3</sup>) (Farm Name if applicable<sup>4</sup>) located at (Address<sup>5</sup>) wishes to formally withdraw from participation in the PA Nutrient Management Act Program (Program) as a Concentrated Animal Operation (CAO). (Operators Name<sup>3</sup>) requested I perform the Concentrated Animal Operation (CAO) calculation to determine if the operation is eligible to withdraw from the Program. On (Date<sup>6</sup>) I visited the operation to verify the animal numbers, as well as, the land available for manure application. Based on the attached CAO calculation, using current animal density information obtained during the (Date<sup>6</sup>) visit, I certify this operation is no longer a CAO for the following reason(s):

1. Reason 1 \_\_\_\_\_
  2. Reason 2 \_\_\_\_\_
  3. Reason 3 \_\_\_\_\_
- etc.

Sincerely,

Commercial Nutrient Management Specialists Signature: \_\_\_\_\_

Commercial Nutrient Management Specialist name (printed or typed): \_\_\_\_\_

NM Certification #: \_\_\_\_\_

I (Operator's Name<sup>3</sup>) attest the information provided to (Plan Writer Name<sup>7</sup>) and used in the attached CAO calculation is true and accurate. I also understand that, in formally requesting to withdraw from participation in the Program, beginning on (date<sup>2</sup>), I forfeit the limited liability protection that has to date been provided by the State Conservation Commission (Commission) under the Program. I understand it is still my responsibility to have and follow a Manure Management Plan (MMP) meeting the Department of Environmental Protection's (DEP) Chapter 91 requirements. I also understand it is still my responsibility to have and follow an Ag Erosion and Sedimentation (Ag E&S) plan meeting DEP's Chapter 102 requirements, knowing that such plans are required for all operations conducting plowing and tilling activities and operations where earthen Animal Concentration Areas (ACAs) and/or Animal Heavy Use Areas (AHUAs) exist.

If you have any questions or comments, please feel free to contact plan writer at (XXX) XXX-XXXX or email me at \_\_\_\_\_.

Sincerely,

(Operator Signature <sup>3</sup>) \_\_\_\_\_

(Operator Name (Printed or Typed <sup>3</sup>) \_\_\_\_\_

Title \_\_\_\_\_

(Mailing Address of operation<sup>9</sup>) \_\_\_\_\_

District<sup>1</sup> = Conservation District Name

Date<sup>2</sup> = Effective Date when operation will no longer be regulated under Act 38, may be immediately

Operator's Name<sup>3</sup> = In most cases this would be the name of the person who signed the latest version of the NMP. This may be the owner, or authorized person to make the decisions for the operation, but needs to follow the requirements of who can sign a NMP as listed in 83.261(9).

Farm Name<sup>4</sup> = Name of farm if applicable / name used in latest NMP

Address<sup>5</sup> = Location of farm

Date<sup>6</sup> = Date site visit was made to verify new animal and acreage numbers

Name<sup>7</sup> = Certified Nutrient Management Specialist's Name who verified the CAO calculations

Address<sup>9</sup> = Mailing address of operation if different from location of farm

**SAMPLE – CAO WITHDRAW ACKNOWLEDGEMENT LETTER**

Date:

Operator Name [Name<sup>1</sup>]

Farm Name (if used)

Operator address

Operator address

Re: Withdraw of [Name<sup>1</sup>] animal operation from the Act 38 Nutrient Management Plan Program

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received a new animal density calculation from \_\_\_\_ [NMS that developed CAO calculations] and a request that your operation at [address of animal operation] be withdrawn from the Act 38 program.

Also on [Date<sup>2</sup>], the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received a letter from you attesting that you (have gained control of (XXX) additional acres or have reduced animal numbers) and your operation is no longer considered a Concentrated Animal Operation (CAO). [only use the one that applies]

Based upon this request, the [Name<sup>3</sup>] County Conservation District acknowledges that [NMP Name] NMP for crop year(s) \_\_\_\_ [add the crop years] will be withdrawn from the PA Nutrient Management Act Program (Act 38) as a Concentrated Animal Operation (CAO).

[Name<sup>3</sup>] County Conservation District would like to remind you that your Act 38 Nutrient Management Plan (NMP) no longer meets the requirements of the Act 38 Nutrient Management Program or the Chapter 91 Manure Management regulations since your plan no longer accurately represents your current animal operation as [cropland/pasture acres under your management control have been added, or animal numbers have been reduced]. [only use the one that applies].

Given that you generate and/or utilize manure you should understand it is still your responsibility to develop and follow, at a minimum, a Manure Management Plan (MMP) meeting the Department of Environmental Protection's (DEP) Chapter 91 requirements.

You should also understand it is your responsibility to have and follow an Agricultural Erosion and Sedimentation (Ag E&S) plan meeting DEP's Chapter 102 requirements. Ag E&S plans are required for all operations conducting plowing and tilling activities and operations where Animal Concentration Areas (ACAs) and/or Animal Heavy Use Areas (AHUAs) exist. An NRCS Conservation Plan meeting these specifics may meet these compliance obligations.

Please feel free to contact me if we can be of any assistance in helping you understand or comply with your obligations.

Sincerely,

John Doe [Name<sup>4</sup>]  
[Name<sup>3</sup>]  
Title

Cc: SCC Regional Coordinator  
File

*Name<sup>1</sup> = Operator's and/or Farm name.*

*Date<sup>2</sup> = Date District received request*

*Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Name<sup>4</sup> = This most likely would be the reviewer of record, however it could also be the district manager or chairperson*



**SAMPLE – VAO WITHDRAW ACKNOWLEDGEMENT LETTER**

Date:

Operator Name [Name<sup>1</sup>]

Farm Name (if used)

Operator address

Operator address

Re: Withdraw of [Name<sup>1</sup>] animal operation from the Act 38 Nutrient Management Plan Program

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_CCD [Name<sup>3</sup>]) received a request that your operation at [address of animal operation] be withdrawn from the Act 38 program.

Based upon this request, the [Name<sup>3</sup>] County Conservation District acknowledges that [NMP Name] NMP for crop year(s) \_\_\_\_\_ [add the crop years] will be withdrawn from the PA Nutrient Management Act Program (Act 38) as a Volunteer Animal Operation (VAO).

[Name<sup>3</sup>] County Conservation District would like to remind you that your withdrawn Act 38 Nutrient Management Plan (NMP) no longer meets the requirements of the Act 38 Nutrient Management Program or the Chapter 91 Manure Management regulations.

Given that you generate and/or utilize manure you should understand it is still your responsibility to develop and follow, at a minimum, a Manure Management Plan (MMP) meeting the Department of Environmental Protection's (DEP) Chapter 91 requirements.

You should also understand it is your responsibility to have and follow an Agricultural Erosion and Sedimentation (Ag E&S) plan meeting DEP's Chapter 102 requirements. Ag E&S plans are required for all operations conducting plowing and tilling activities and operations where Animal Concentration Areas (ACAs) and/or Animal Heavy Use Areas (AHUAs) exist. An NRCS Conservation Plan meeting these specifics may meet these compliance obligations.

Thank you for your past participation in the Act 38 Program. If we can be of any assistance in helping you understand or comply with your obligations, or in your transitioning from a NMP to a MMP, please feel free to contact me.

Sincerely,

John Doe [Name<sup>4</sup>]

[Name<sup>3</sup>]

Title

Cc: SCC Regional Coordinator  
File

*Name<sup>1</sup> = Operator's and/or Farm name.*

*Date<sup>2</sup> = Date District received request*

*Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Name<sup>4</sup> = This most likely would be the reviewer of record, however it could also be the district manager or chairperson*

**SAMPLE – PROCEDURE FOR CHANGING STATUS UNDER ACT 38 LETTER**

Date:

Operator Name [Name<sup>1</sup>]

Farm Name (if used)

Operator address

Operator address

Re: Status change of [Name<sup>1</sup>] animal operation under the Act 38 Nutrient Management Plan Program

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received a request from you for information regarding changing the Concentrated Animal Operation (CAO) status for your operation at [address of animal operation].

Based upon this request, the [Name<sup>3</sup>] County Conservation District is advising you that when a CAO changes the animal density on their operation either by decreasing animal numbers, adding additional land suitable or a combination of both, the changes must be verified by a certified Nutrient Management Specialist (NMS) and the appropriate documentation provided to our office for review.

To change your status from a CAO under the Act 38 Nutrient Management Program you must complete the following:

1. Have a certified NMS complete a new animal density calculation for your operation. The NMS must verify any changes to your animal numbers or acres available for manure application to certify the new status.
2. Provide a map that details the operation and all fields and acreage that are available for manure application. Please note that land suitable for the application of manure includes cropland, hayland and pastureland, must be under your management control and must receive manure from your operation. Farmstead areas and forest land does not count as land suitable for the application of manure.
3. If additional leased or rented land is being claimed, the lease or rental agreements for these acres should be included.
4. A written request to be withdrawn from the Act 38 program must be included with the new animal density calculation if you wish to withdraw from the program.

5. Submit the new animal density calculation and supporting documentation as outlined above to our office for review and verification. Additional supporting information may be requested as needed. Please note that the documentation submitted cannot be in conflict with information provided by the animal integrator, landowners of leased or rented land, or other sources of verification.

If the new animal density calculation and supporting documentation is complete and acceptable, we will send you and your plan writer a formal acknowledgement letter regarding your withdrawal from the Act 38 Nutrient Management Program. If the information submitted is determined to be incomplete or unacceptable, your operation will continue to be considered to be a CAO and be required to comply with all Act 38 requirements.

Given that you generate and/or utilize manure you should understand that even if you are no longer a CAO, it is still your responsibility to develop and follow, at a minimum, a Manure Management Plan (MMP) meeting the Department of Environmental Protection's (DEP) Chapter 91 requirements.

You should also understand it is your responsibility to have and follow an Agricultural Erosion and Sedimentation (Ag E&S) plan meeting DEP's Chapter 102 requirements. Ag E&S plans are required for all operations conducting plowing and tilling activities and operations where Animal Concentration Areas (ACAs) and/or Animal Heavy Use Areas (AHUAs) exist. An NRCS Conservation Plan meeting these specifics may meet these compliance obligations.

Please feel free to contact me should you have any questions regarding this issue.

Sincerely,

John Doe [Name<sup>4</sup>]  
[Name<sup>3</sup>]  
Title

Cc: [Name], SCC Regional Coordinator  
File

*Name<sup>1</sup> = Operator's and/or Farm name.*

*Date<sup>2</sup> = Date District received request*

*Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Name<sup>4</sup> = This most likely would be the reviewer of record, however it could also be the district manager or chairperson*

**SAMPLE ADMINISTRATIVE COMPLETENESS REVIEW LETTER**

Date \_\_\_\_\_

Operator's Name

Farm Name (*if used in NMP*)

Operator's address

Operator's address

Re: Administrative completeness review of the [Name<sup>1</sup>] Nutrient Management Plan

Dear Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

The [Name<sup>2</sup>] County Conservation District (\_\_\_ CCD, or District [Name<sup>2</sup>]) received the proposed Nutrient Management Plan (NMP *or* plan) on [Date<sup>3</sup>], for your animal operation located at [Address<sup>4</sup>]. [Name<sup>2</sup>] has reviewed the plan in order to determine whether it contains the information, maps and other documents necessary for administrative completeness. Please be advised that your submission has been deemed **administratively complete** and will be processed further for technical review.

Upon completion of the technical review of the plan, you will be notified in writing of any plan components that do not meet the requirements of the Nutrient Management Act Technical Manual and regulations, as well as any corrections to the plan that may be necessary. If the plan meets the requirements of the regulations, it will be recommended to the [Name<sup>2</sup>] Board of Directors for approval. In either case, you will be notified in writing within 90 days of receipt of a complete plan.

Concentrated Animal Feeding Operation (CAFO) NMPs will simultaneously be reviewed by DEP regional staff. CAFO NMPs must be published in the Pennsylvania Bulletin for 30 days before Board action. Comments received from DEP, as well as appropriate comments from the general public, will be included with my forthcoming technical review comments. ***[Paragraph not necessary for non-CAFO NMPs]***

Thank you for participating in the program. Please feel free to call me at \_\_\_\_-\_\_\_\_-\_\_\_\_\_ if you have any questions.

Sincerely,

John Doe [Name<sup>5</sup>]

[Name<sup>2</sup>] Title

cc: Author of plan

File

DEP if Operation is a CAFO

Name<sup>1</sup> = Name on NMP: operator's and / or farm name. **Administrative complete letters must be addressed to operator (not planner). Planner is copied.**

Name<sup>2</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>3</sup> = Date you received the NMP (don't forget to write this on the plan's cover page, and / or date-stamp the hard copy plan)

Address<sup>4</sup> = Site address (minus the state and zip code)

Name<sup>5</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager.

## SAMPLE ADMINISTRATIVE INCOMPLETE REVIEW LETTER

Date \_\_\_\_\_

Operator's Name

Farm Name (*if used in the NMP*)

Operator's Address

Operator's Address

Re: Administrative Completeness Review of [Name<sup>1</sup>] Nutrient Management Plan

Dear Mr. / Mrs. / Ms. [Name<sup>1</sup>],

The [Name<sup>2</sup>] County Conservation District (\_\_\_ CCD, or District) received the proposed Nutrient Management Plan (NMP or plan) on [Date<sup>3</sup>], for your animal operation located at [Address<sup>4</sup>]. [Name<sup>2</sup>] CD staff reviewed the plan in order to determine whether it contains the necessary information, maps and other documents necessary for administrative completeness, and is planned for the proper crop years.

Please be advised that your submission has been deemed **administratively incomplete**, for the following reasons:

1. (Summary / Appendix #, section within \_\_) and list the first issue

2. (Summary / Appendix #, section within \_\_) and the second issue, etc.

3. (Summary / Appendix #, section within \_\_) and list issue, etc.

The [Name<sup>2</sup>] CD office cannot process an administrative incomplete Act 38 NMP and is therefore returning this plan so that corrections can be made. Please discuss the above listed items with your Nutrient Management Specialist and have him/her address these concerns.

The Act 38 program requires the re-submission of a complete NMP within 30 days of receipt of this notice. With that resubmission in mind, the [Name<sup>2</sup>] Conservation District requests you resubmit your Act 38 NMP by [Date<sup>5</sup>]. Please expedite your planning efforts in meeting this timeframe.

Once an administratively completed plan is received at the [Name<sup>2</sup>] CD office, staff will perform a technical review of your plan. The [Name<sup>2</sup>] CD office is required to take an action within 90 days from the receipt of an administratively completed plan.

*I am [or Name<sup>2</sup> (if the letter is signed by the District Manager)]* CD staff are available to discuss any of the concerns identified above either on the phone, or in person in order to facilitate the plan development process. Please feel free to call our office at *[Phone<sup>6</sup>]*.

Sincerely,

*[Name<sup>7</sup>]*

*[Name<sup>2</sup>]*

Title

Attachment: Administratively Incomplete NMP

cc: Author of plan  
File

Name<sup>1</sup> = Name on NMP operator's and / or farm name. Administrative in complete letters must be addressed to operator (not planner). Planner is copied.

Name<sup>2</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>3</sup> = Date you received the NMP (don't forget to write this on the plan's cover page, and / or date-stamp the hard copy plan)

Address<sup>4</sup> = Site address (minus the state and zip code)

Date<sup>5</sup> = 30 days after sending the administratively incomplete letter

Phone<sup>6</sup> = CD phone number

Name<sup>7</sup> = Reviewer of record or District Manager



## Sample Technical Review Letter Requesting Corrections to the Plan

Date \_\_\_\_\_

Planner's Name

Planner's company name (*if used in NMP*)

Planner's address

Planner's address

Re: Technical review of **[Name<sup>1</sup>]** Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. **[planner's name]**,

The **[Name<sup>2</sup>]** County Conservation District ( \_\_ CCD **[Name<sup>2</sup>]** ) received the initially proposed Nutrient Management Plan (NMP, or plan) for the **[Name<sup>1</sup>]** animal operation located at **[Address<sup>3</sup>]**, on **[Date<sup>4</sup>]**. The NMP was deemed administratively complete at that time **[or list date if admin completeness was met at a later date]**. **[Name<sup>2</sup>]** received your most recent revision to the plan on **[Date<sup>5</sup>]**. I have completed my technical review of the plan **[or, if on the second or more revision: and the most recent plan revision]** and have identified the following issues that appear **[or still appear]** to be in conflict with the Nutrient Management Act program standards: **[Comments<sup>6</sup>]**

Appendix 1,

1. list the first issue (page # \_\_\_\_)

Appendix 3,

2. list the second issue (page # \_\_\_\_),
3. list the third issue (page # \_\_\_\_), etc.

[Or instead of the above format, letter can say “these issues are outlined on the attached technical review list.” For reviews with several or lengthy technical comments it may be more appropriate to list those comments on a separate document. It is absolutely critical that review comments are written carefully, as they need to be clear to the planner, and once mailed become a record of your review efforts.]

Please address each of these issues by either submitting a revision to the plan addressing these concerns, or by indicating how you believe the current element in the plan does indeed conform to program standards.

NMPs must be acted upon within 90 days. It is the State Conservation Commission's policy that NMPs not in final form after 90 days are to be disapproved. Only the State Conservation Commission, or a delegated conservation district, has the ability to roll a plan review over into a second 90-day review period. [For reviews that have received an extension approval from the SCC include the following sentence here: “Please note that the SCC approved a (##) day review extension for this NMP until the (Date) board meeting”.]

In addressing the above items, please keep in mind that NMPs need to be in the [Name<sup>2</sup>] office *in final form* **at least** 7 days before they are acted upon. [Name<sup>2</sup>]’s upcoming Board of Director’s meetings are scheduled for [Date<sup>7</sup>] and [Date<sup>8</sup>].

I am available to discuss any of the concerns identified above either on the phone, email, or in person in order to facilitate finalization of this plan. Please feel free to call me at \_\_\_\_-\_\_\_\_\_, or email at \_\_\_\_\_. Thank you.  
Sincerely,

John Doe  
[Name<sup>2</sup>]  
Title

Enclosed:

Technical review comments (*if done on a separate document*)

Cc: DEP if Operation is a CAFO

Operator (*if requesting corrections a second time or more*)

Name<sup>1</sup> = Name on NMP, either farm name, or operator’s name. With the complexity of Act 38 NMPs, the Commission encourages the first round of technical review comments be sent solely to the planner. ***If additional technical review comments becomes necessary (due to the planner not addressing the reviewer’s concerns) Commission policy is for reviewers to send those subsequent comments to the planner, and copy the operator.***

Name<sup>2</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address<sup>3</sup> = Site address (minus the state and zip code). Since planners often work in several counties, adding county name would be helpful and appropriate.

Date<sup>4</sup> = Date you received the initial NMP (if no later version, remember to write this on the NMP’s cover page)

Date<sup>5</sup> = Date of most recently received version of the NMP. (Don’t forget to write this on the NMP’s cover page)

Comments<sup>6</sup> = Comments need to be clear and specific, and with enough detail that the planner clearly understands what you are asking of them.

Date<sup>7</sup> = Date of first upcoming BOD meeting

Date<sup>8</sup> = Date of second upcoming BOD meeting

Name<sup>9</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager

**YEARLY PLAN SUBMISSION or PLAN UPDATE [chose one] DEFICIENCY LETTER**

Date \_\_\_\_\_

Operator Name

Farm Name (if used in NMP)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, [Operator's Name]

Your current approved Nutrient Management Plan (NMP, or plan), (planned for crop year (s) [Date<sup>4</sup>] was approved on [Date<sup>5</sup>]. On [Date<sup>2</sup>] [Name<sup>1</sup>] County Conservation District (\_\_\_\_ CCD, or District) received the proposed Nutrient Management Plan (NMP) Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted], for your animal operation located at [Address<sup>3</sup>]. This Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted] seeks to extend your current NMP approval through crop year [Date<sup>6</sup>], expiring on (Date<sup>7</sup>).

[Name<sup>1</sup>] has performed an administrative review on this yearly plan submission or plan update [CD chose the appropriate document submitted] and because of deficiencies, has determined that it does not meet program requirements outlined in the Pennsylvania Nutrient Management Technical Manual. Therefore ***this letter serves to acknowledge that your submitted yearly plan submission or plan update [CD chose the appropriate document submitted] has not been accepted as submitted, and consequently will not extend the life of your NMP.***

I have completed the review of your submitted yearly plan submission or plan update [CD chose the appropriate document submitted] and have identified the following issues that appear to be in conflict with the Nutrient Management Act program standards.

1. List the first issue (page #)
2. List the second issue (page #)
3. List the third issue (page #), etc.

Please address each of these issues by either submitting a revision to the plan addressing these concerns, or by indicating how you believe the current element in the plan does indeed conform to program standards.

**OR**

Based on obtained information, significant changes from the current approved NMP have been identified. These changes, as listed below, and described in 83.371 of the Act 38 Rules and Regulations, trigger the requirement of a formal plan amendment. Act 38 requires Concentrated Animal Operations (CAOs) and Concentrated Animal Feeding Operations (CAFOs) [CD to choose only those that are appropriate] to have a current approved plan at all times, therefore your Plan Amendment will need to be submitted to the district within 30 days, or by (date<sup>7</sup>) [May be eliminated if a plan amendment is not needed].

1. Greater than 10% Increase in animal equivalent units per acre.
2. Change in crop management that results in a reduction of greater than 20% in nitrogen necessary for realistic expected crop yields or the amount the crops will utilize within one crop year.
3. Change in excess manure utilization arrangements as described in the approved plan. (Example: Manure exported to a broker instead of exported to known landowners.)
  - a. No amendment is required to address the loss of an importer if the loss does not impair the operator's ability to properly manage the manure generated on the operation
  - b. No amendment is required to address the addition of a new importer if the operator submits the nutrient balance sheet and signed agreement required by this subchapter to the delegated conservation district overseeing the exporting farm, prior to the transport.
4. If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with the requirements of this subchapter, and adequate justification has not been given in writing for the inconsistency.
5. If a BMP different than that called for in the approved plan is proposed to address a manure management or stormwater management concern.
6. If after 3 years of implementing the plan, actual yields are less than 80% of the expected crop yields used in development of the plan.
7. If alternative organic nutrient sources will replace or augment nutrient sources described in the plan.
8. If additional land is brought into the operation through purchase, lease or renting.
9. If there is a change in the management system that is expected to result in a different nutrient content that requires a change in manure application rates under § 83.293 (relating to plan implementation).
10. If a change in manure application is necessary based on the reevaluation of potential phosphorous loss as part of the triennial review under § 83.362(c)(related to plan implementation).

*[These triggers need to be farm- specific. Only list those triggers that will cause the need for a plan amendment, deleting those triggers that are non-applicable]*

I am [or District Manager (Name) is] available to discuss any of the concerns identified above either on the phone, email, or in person in order to facilitate finalization of this update. Please feel free to call me at [redacted], or email at [redacted].

Sincerely,

Name<sup>8</sup>

Name<sup>1</sup>

Title

cc: Author of plan

Michael Aucoin, SCC (if author is provisionally certified)

Name<sup>1</sup> = *Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation district (ACCD))*

Date<sup>2</sup> = *Date yearly plan submission or plan update was received by the CD*

Address<sup>3</sup> = *Site address (minus) the state and zip code)*

Date<sup>4</sup> = *Crop year for which current NMP was planned (October, 20\_\_\_\_ - September 30, 20\_\_\_\_)*

Date<sup>5</sup> = *Date your BOD took action on the current approved NMP.*

Date<sup>6</sup> = *Crop year planned under submitted yearly plan submission or plan date update.*

Date<sup>7</sup> = *Date yearly plan submission or plan update will expire. End of last crop year covered in plan. September 30, 20\_\_\_\_)*

Name<sup>8</sup> = *preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.*

## Sample Review Letter Requesting Corrections to An Act 49 Nutrient Balance Sheet.

Date:

Broker<sup>1</sup> or Nutrient Management Planner Name<sup>2</sup>

Broker or planner address<sup>3</sup>

Dear (broker or planner name),

The (name<sup>4</sup>) County Conservation District reviewed the Nutrient Balance Sheet (NBS) for the (name of the importing operation<sup>5</sup>). The operation is at (operation address<sup>5</sup>).

NBS sheets submitted under Act 49 are reviewed per Act 38 NBS standards. Based on the review of the submitted NBS, please address the following comments and resubmit the NBS in (30 days from the date on the letter) to the (Name) County Conservation District.

1. Comment 1
2. Comment 2, etc.

Please feel free to contact me if additional information is required (phone number).

Please be aware that it is the responsibility of the broker submitting the NBS to provide a copy of a corrected NBS to the importing operation and to the county conservation district of both the exporting and importing operations.

Sincerely,

Name of CD Technician<sup>6</sup>,  
Title

Cc: Broker (if not the author of the NBS under review)

<sup>1</sup> Certified Broker who wrote and/or submitted the nutrient balance sheets

<sup>2</sup> Certified Nutrient Management Planner who wrote the nutrient balance sheet

<sup>3</sup> - Address of Broker or planner who wrote the nutrient balance sheets

<sup>4</sup> - Name of the conservation district reviewing the nutrient balance sheets

<sup>5</sup> - Name and address of importing operation

<sup>6</sup> - Name and title of person who reviewed the nutrient balance sheets

## SAMPLE

## Plan Approval Letter for CAOs

Date \_\_\_\_\_

Operator Name

Farm Name (*if used in NMP*)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, *[Operator's Name]*

The *[Name<sup>1</sup>]* County Conservation District (\_\_CCD, or District *[Name<sup>1</sup>]*) received the proposed Nutrient Management Plan (NMP) in its final form on *[Date<sup>2</sup>]* for your animal operation located at *[Address<sup>3</sup>]*. Based upon our review, the plan submission in its final form met the requirements of Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations, and therefore **was approved by the *[Name<sup>1</sup>]* Board of Directors at their *[Date<sup>4</sup>]* meeting.** Your newly approved **[NMP, Plan Amendment, or Update]** will expire on *[Date<sup>5</sup>]*, which is the end of the last crop year for which it was developed.

**To remain in compliance with** Act 38 (Pa's Nutrient Management Act) you must implement the plan, maintain plan implementation records, and update or amend your plan according to the program timeframes. The limited liability provisions of the Act are afforded only to those operators that are implementing their approved plan according to schedule and maintaining the required records.

**Nutrient Management Act Obligations:**

Your legal obligations relating to your approved Nutrient Management Plan are as follows:

- 1) **Fully implement and follow all provisions of your approved Nutrient Management Plan.**  
Operate and maintain all existing BMPs on your operation in order to protect water quality. Apply manure and other nutrient sources in accordance with the specific applications rates, timing and methods described in your approved NMP. If you wish to deviate from the provisions approved in your plan, you must contact your certified planner and our office prior to the action.
- 2) With the assistance of a Pennsylvania Certified Nutrient Management Specialist you must:
  - a. **Amend your plan** whenever there is a significant change in the management of nutrients on the farm. Those significant changes that would require a plan amendment are any of the following:
    - i. A net increase in Animal Equivalent Units per acre (AEUs / ac) by more than 10% (either by increasing animal numbers, loss of acres, or a combination of the two);

- ii. A change in crop management that results in a reduction of greater than 20% in nitrogen necessary for realistic expected crop yields, or the amount the crop will utilize within one crop year;
  - iii. A change in excess manure utilization arrangements as described in the approved plan;
    - 1. No amendment is required to address the loss of an importer if the loss does not impair the operator's ability to properly manage the manure generated on the operation.
    - 2. No amendment is required to address the addition of a new importer if the operator submits the nutrient balance sheet and signed agreement required by this subchapter to the delegated conservation district overseeing the exporting farm, prior to transport. The district shall verify the adequacy of the documentation, update the plan file with the new documentation and require formal approval of the new importer through a plan amendment when the plan is subject to the triennial review under § 83.362(c) (relating to plan implementation).
  - iv. If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with the requirements of this subchapter, and adequate justification has not been given in writing for the inconsistency;
  - v. If a BMP different than that called for in the approved plan is proposed to address a manure management or stormwater management concern;
  - vi. If, after the first 3 years of implementing the plan, actual yields are less than 80% of the expected crop yields used in the development of the plan.
  - vii. If alternative organic nutrient sources will replace or augment nutrient sources described in the plan.
  - viii. If additional lands are brought into the operation through purchase, lease or renting.
  - ix. If there is a change in the manure management system that is expected to result in a different nutrient content that requires a change in manure application rates under § 83.293 (relating to determination of nutrient application rates).
  - x. If a change in manure application is necessary based on the reevaluation of potential phosphorus loss as part of the triennial review under § 83.362(c) (relating to plan implementation).
- b. Update your plan to address operational or computational (minor) changes other than those described above (a, i-x). Examples of minor changes would be changing crops in a field different from those listed in your current plan, or adding new importers to your plan.
  - c. Both three-year, and yearly plan submissions (either Amendments or Updates) must be submitted to the [Name'] prior to the beginning of the next crop year (October 1<sup>ST</sup>) of the upcoming crop year for which they are planned.
- 3) Maintain accurate records (as outlined in the "Nutrient Management Plan Agreement & Responsibilities" page of your approved plan) including:
- a. Land application of fertilizer, manure and other nutrients on your operation,
    - i. Including the location and number of acres of application, date of application, and rate of application for each field or crop group



- b. Crop yields representing all fields on the operation,
- c. Soil tests every three years representing all fields on the operation,
- d. Annual manure analysis reports,
- e. Manure production records,
- f. The number of animals on pasture (if any) as well as number of days on pasture and hours per day, *[List needs to the specific to the NMP operation. Delete items that do not pertain to the operation]*

You do not need to submit these records to the Commission or **[Name<sup>1</sup>]**, but they must be retained on the operation and be available upon request by the Commission or Conservation District. Several sample record keeping forms have been included with this mailing. You do not need to use these sample forms, but you are required to keep the records listed above. The included forms are provided to help you keep those required records.

- 4) Maintain accurate manure export records of manure being exported off of your operation. **Manure Export Sheets** must be completed every time manure is exported from your site. A copy of a blank Manure Export Sheet is included in this mailing. A completed Manure Export Sheet representing each manure export event, kept on file at your operation (with a copy provided to the importer), satisfies your continual record keeping requirements for exported manure. The Manure Export Summary sheet is an optional form that you may find useful when manure is frequently exported to the same importer within the same crop year. *[Delete this paragraph for farms not exporting manure.]*
- 5) Provide Exported Manure Information Packet. During the initial implementation of your plan, when transferring manure to a given importer for the first time, you will need to provide a copy of the **Exported Manure Information Packet** to the importer. This export packet (enclosed) includes a copy of:
  - a. Exported Manure Informational Packet Guidance Sheet.
  - b. Nutrient Management Planning: An Overview (Penn State Agronomy Facts 60).
  - c. Manure Management for Environmental Protection.
  - d. Land Application of Manure – A supplement to the Manure Management Manual Plan Guidance.
  - e. Manure Export Sheet.
  - f. Manure Transfer Summary Sheets.
  - g. Manure Field Stacking Requirements Fact Sheet.

You only need to provide this information packet to each importer once through the life of your operation. If you need additional Manure Export Packets, please contact **[Name<sup>1</sup>]**. *[Delete this paragraph for farms not exporting manure, or for those farms exporting for reasons other than for Ag land application.]*

- 6) Implement or install all proposed Best Management Practices (BMPs) listed in your approved Nutrient Management Plan in accordance with their implementation date listed in the plan. The BMPs, and their proposed implementation dates (as listed on page #\_\_\_\_\_ of your plan) are:

- a. **BMP name, location, and implementation timeframe [BMP<sup>6</sup>];**
- b. **[repeat for each BMP]...**

Prior to building any BMP, you will need to obtain a design for the practice. The practice design will need to conform to the standards in the Pennsylvania Technical Guide. For Nutrient Management Plans that include liquid or semi-solid manure storages, the design for the storage must be developed by a Professional Engineer licensed to work in Pennsylvania. **At least two weeks prior to beginning construction on the new manure storage, you will need to have your engineer submit to our office, written verification indicating that the storage has been designed according to the appropriate standards and that it is in conformance with the setback requirements.** Also at that time, the engineer will need to submit a copy the quality assurance plan outlining when, and by whom, the construction job will be inspected for conformance with the design standards. *[Manure storage language is only needed for plans proposing to install a new manure storage structure]*

If you need any assistance with the installation of these proposed BMPs, please feel free to call our office and we will attempt to help you with these practices. If you will not be implementing the practices (as originally proposed above) you are required to inform your nutrient management planner so your plan can be revised to reflect this change.

*[Delete this entire item 4 if there are no new BMPs proposed in the approved plan.]*

- 7) Participate in Annual Status Reviews. Nutrient management program staff from the Commission, or [Name<sup>1</sup>], are obligated to inspect your farm at least annually to assess plan implementation and record keeping. This is completed through **annual Status Reviews**. *[For CAFOs, Add the following:* The Department of Environmental Protection may also be involved with inspections of your operation (either jointly or separately) in an effort to ensure that the Concentrated Animal Feeding Operations (CAFO) permit requirements are being applied properly to your operation.] Staff will call ahead to try to accommodate your schedule. Please call [Name<sup>1</sup>] if you have any questions relating to the implementation of your plan.
- 8) Perform Triennial Reviews - At least triennially, your plan, records, and status of your operation's compliance will need to be reviewed by a certified NM specialist to determine whether a plan amendment is required. A reevaluation of your Phosphorus Index will be part of this **triennial review**. You will need to have a triennial review completed on your plan at least by [Date<sup>7</sup>]. *Please note that that the triennial review must be completed early enough so that the NMP can be amended, submitted, reviewed and approved prior to the expiration of your newly approved NMP on September 30 [Select appropriate year] and subsequent start of the crop year on October 1<sup>st</sup>*

In conclusion, you are legally obligated to follow all provisions of your approved nutrient management plan. You cannot deviate from the practices outlined in this plan without formally revising this approved nutrient management plan through a Pennsylvania Certified Nutrient Management Specialist and the [Name<sup>1</sup>] County Conservation District. If you have any questions about this letter or your requirements under the nutrient management program, please feel free to call me [Name<sup>8</sup>] at (\_\_\_\_) \_\_\_\_-\_\_\_\_. I will be glad to provide any additional assistance.

Sincerely,  
John Doe [Name<sup>8</sup>]  
[Name<sup>1</sup>]  
Title

Enclosures:

Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan  
Michael Aucoin, SCC (if author is provisionally certified)  
DEP if Operation is a CAFO

Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>2</sup> = Date plan was deemed to be in final form

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Date your BOD took action on the plan

Date<sup>5</sup> = Date plan will expire (most likely September 30 of the last crop year planned)

BMP<sup>6</sup> = list BMP name, location, and implementation timeframe as they appear in the plan

Date<sup>7</sup> = This date will either be the same as Date<sup>5</sup>

Name<sup>8</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

\*Make sure to include enclosures

## Sample Plan Approval Letter for Volunteers

Date \_\_\_\_\_

Operator Name

Farm Name (*if used in NMP*)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, *[Operator's Name]*

The **[Name<sup>1</sup>]** County Conservation District (\_\_\_CCD, or District **[Name<sup>1</sup>]**) received the proposed Nutrient Management Plan (NMP) in its final form on **[Date<sup>2</sup>]** for your animal operation located at **[Address<sup>3</sup>]**. Based upon our review, the plan submission in its final form met the requirements of Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations, and therefore **was approved by the [Name<sup>1</sup>] Board of Directors at their [Date<sup>4</sup>] meeting.** Your newly approved [NMP, Plan Amendment, or Update] will expire on **[Date<sup>5</sup>]**, which is the end of the last crop year for which it was developed.

**To maintain your volunteer status** under the Act 38 as a Volunteer Animal Operation (VAO), you must implement the plan, keep plan implementation records, and update or amend your plan according to program timeframes. The limited liability provisions of the Act are afforded only to those operators that are implementing their approved plan according to schedule, and maintaining the required records.

### **Nutrient Management Act Obligations:**

The following is a list of program obligations required to maintain volunteer status under Pennsylvania's Nutrient Management Act (Act 38) Program:

- 1) **Fully implement and follow all provisions of your approved Nutrient Management Plan.**  
Operate and maintain all existing BMPs on your operation in order to protect water quality. Apply manure and other nutrient sources in accordance with the specific applications rates, timing and methods described in your approved NMP. If you wish to deviate from the provisions approved in your plan, you must contact you certified planner and our office prior to the action.
- 2) With the assistance of a Pennsylvania Certified Nutrient Management Specialist you must:
  - a. **Amend your plan** whenever there is a significant change in the management of nutrients on the farm. Those significant changes that would require a plan amendment are any of the following:
    - i. A net increase in Animal Equivalent Units per acre (AEUs / ac) by more than 10% (either by increasing animal numbers, loss of acres, or a combination of the two);
    - ii. A change in crop management that results in a reduction of greater than 20% in nitrogen necessary for realistic expected crop yields, or the mount the crop will utilize within one crop year;

- iii. A change in excess manure utilization arrangements as described in the approved plan;
      - 1. No amendment is required to address the loss of an importer if the loss does not impair the operator's ability to properly manage the manure generated on the operation.
      - 2. No amendment is required to address the addition of a new importer if the operator submits the nutrient balance sheet and signed agreement required by this subchapter to the delegated conservation district overseeing the exporting farm, prior to transport. The district shall verify the adequacy of the documentation update the plan file with the new documentation and require formal approval of the new importer through a plan amendment when the plan is subject to the triennial review under § 83.362(c) (relating to plan implementation).
    - iv. If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with the requirements of this subchapter, and adequate justification has not been given in writing for the inconsistency;
    - v. If a BMP different than that called for in the approved plan, is proposed to address a manure management or stormwater management concern;
    - vi. If, after the first 3 years of implementing the plan, actual yields are less than 80% of the expected crop yields used in the development of the plan.
    - vii. If alternative organic nutrient sources will replace or augment nutrient sources described in the plan.
    - viii. If additional lands are brought into the operation through purchase, lease or renting.
    - ix. If there is a change in the manure management system that is expected to result in a different nutrient content that requires a change in manure application rates under § 83.293 (relating to determination of nutrient application rates).
    - x. If a change in manure application is necessary based on the reevaluation of potential phosphorus loss as part of the triennial review under § 83.362(c) (relating to plan implementation).
  - b. Update your plan to address operational or computational (minor) changes other than those described above (a, i-x). Examples of minor changes would be changing crops in a field different from those listed in your current plan, or adding new importers to your plan.
  - c. Both three-year, and annual plan submissions (either Amendments or Updates) must be submitted to the [Name<sup>1</sup>] prior to the beginning of the next crop year (October 1<sup>ST</sup>) of the upcoming crop year for which they are planned.
- 3) Maintain accurate records (as outlined in the "Nutrient Management Plan Agreement & Responsibilities" page of your approved plan) including:
  - a. Land application of fertilizer, manure and other nutrients on your operation,
    - i. Including the location and number of acres of application, date of application, and rate of application for each field or crop group
  - b. Crop yields representing all fields on the operation,
  - c. Soil tests every three years representing all fields on the operation,
  - d. Annual manure analysis reports,

- e. Manure production records,
- f. The number of animals on pasture (if any) as well as number of days on pasture and hours per day, *[List needs to the specific to the NMP operation. Delete items that do not pertain to the operation]*

You do not need to submit these records to the Commission or *[Name<sup>1</sup>]*, but they must be retained on the operation and be available upon request by the Commission or Conservation District. Several sample record keeping forms have been included with this mailing. You do not need to use these sample forms, but you are required to keep the records listed above. The included forms are provided to help you keep those required records.

4) Implement or install all proposed Best Management Practices (BMPs) listed in your approved Nutrient Management Plan in accordance with their implementation date listed in the plan. The BMPs, and their proposed implementation dates (as listed on page #\_\_\_\_\_ of your plan) are:

- a. ***BMP name, location, and implementation timeframe [BMP<sup>6</sup>];***
- b. ***[repeat for each BMP]...***

Prior to building any BMP, you will need to obtain a design for the practice. The practice design will need to conform to the standards in the Pennsylvania Technical Guide. For Nutrient Management Plans that include liquid or semi-solid manure storages, the design for the storage must be developed by a Professional Engineer licensed to work in Pennsylvania. **At least two weeks prior to beginning construction on the new manure storage, you will need to have your engineer submit to our office, written verification indicating that the storage has been designed according to the appropriate standards and that it is in conformance with the setback requirements.** Also at that time, the engineer will need to submit a copy the quality assurance plan outlining when, and by whom, the construction job will be inspected for conformance with the design standards. *[Manure storage language is only needed for plans proposing to install a new manure storage structure]*

If you need any assistance with the installation of these proposed BMPs, please feel free to call our office and we will attempt to help you with these practices. If you will not be implementing the practices (as originally proposed above) you are required to inform your nutrient management planner so your plan can be revised to reflect this change.

***[Delete this entire item 4 if there are no new BMPs proposed in the approved plan.]***

5) Maintain accurate manure export records of manure being exported off of your operation. **Manure Export Sheets** must be completed every time manure is exported from your site. A copy of a blank Manure Export Sheet is included in this mailing. A completed Manure Export Sheet representing each manure export event, kept on file at your operation (with a copy provided to the importer), satisfies your continual record keeping requirements for exported manure. The Manure Export Summary sheet is an optional form that you may find useful when manure is frequently exported to the same importer within the same crop year.

6) Provide Exported Manure Information Packet. During the initial implementation of your plan, when transferring manure to a given importer for the first time, you will need to provide a copy

of the **Exported Manure Information Packet** to the importer. This export packet (enclosed) includes a copy of:

- a. A blank *Manure Export Sheet*;
- b. A copy of PA Department of Environmental Protection's "*Land Application of Manure: Manure Management Plan Guidance*" (a supplement to DEP's Manure Management Manual);
- c. A copy of Penn State factsheet "*Agronomy Facts 60-Nutrient Management Planning: An Overview*".

You only need to provide this information packet to each importer once through the life of your operation. If you need additional Manure Export Packets, please contact [Name<sup>1</sup>]. *[Delete this paragraph for farms not exporting manure, or for those farms exporting for reasons other than for Ag land application.]*

7) Participate in onsite Status Reviews. Nutrient management program staff from the Commission, or [Name<sup>1</sup>], are obligated to inspect your VAO farm at least every three years to assess plan implementation and record keeping. This is completed through onsite **Status Reviews**. Staff will call ahead to try to accommodate your schedule. Please call [Name<sup>1</sup>] if you have any questions relating to the implementation of your plan.

8) Perform Triennial Reviews - At least triennially, your plan, records, and status of your operation's compliance will need to be reviewed by a certified NM specialist to determine whether a plan amendment is required. A reevaluation of your Phosphorus Index will be part of this **triennial review**. You will need to have a triennial review completed on your plan at least by [Date<sup>7</sup>].

In conclusion, in order for you to maintain your volunteer status under Act 38, and the limited liability protection afforded to you by the Act, you must follow all the provisions (including record keeping) of your approved Act 38 NMP.

**Thank you for your participation in Pennsylvania's Nutrient Management Act program.**

Your participation in this program also satisfies your Pennsylvania manure management planning obligations under Chapter 91 of PA's Clean Streams Law. If you have any questions, please feel free to call me at \_\_\_\_ - \_\_\_\_\_ [phone number].

Sincerely,

John Doe [Name<sup>8</sup>]  
[Name<sup>1</sup>]  
Title

Enclosures:

Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan  
Michael Aucoin, SCC (if author is provisionally certified)  
\_\_\_\_ DEP if Operation is a CAFO

Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>2</sup> = Date plan was deemed to be in final form

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Date your BOD took action on the plan

Date<sup>5</sup> = Date plan will expire (most likely September 30 of the last crop year planned)

BMP<sup>6</sup> = list BMP name, location, and implementation timeframe as they appear in the plan

Date<sup>7</sup> = This date will either be the same as Date<sup>5</sup> (

Name<sup>8</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

\*Make sure to include enclosures



### **Recommending Action of a NMP to Another CD**

Date: \_\_\_\_\_

CD Chairperson Name<sup>1</sup>

CD Address<sup>2</sup>

CD Address<sup>2</sup>

Re: Action (Approval or Disapproval) [select] of \_\_\_\_\_ [NMP Name] NMP

Dear \_\_\_\_\_ (CD Chairpersons name<sup>1</sup>),

I have completed the required technical review and site visit for the [NMP Name] nutrient management plan (NMP) [or plan amendment] [select], which was written by \_\_\_\_\_ [Planner Name] of \_\_\_\_\_ [Planner Company or CCD office]. This is a \_\_\_\_\_ [# years in NMP] year NMP that includes crop years 20\_\_ through 20\_\_. A crop year is understood to begin October 1 of the previous year; therefore this plan will take effect on October 1, 20\_\_.

I performed this review because \_\_\_\_\_ [either the farm operator is a member of your board of directors, or the plan was developed by a member of your staff] [select]. The plan was considered to be in its final form, available for public review, on \_\_\_\_\_ [date plan is in final form].

\_\_\_\_\_ [NMP Name], an existing (or proposed) [select] \_\_\_\_\_ [animal type] operation located in \_\_\_\_\_ Township, is home to \_\_\_\_\_ [animal species and number]. The operation has \_\_\_\_\_ acres suitable for manure application of which \_\_\_\_\_ acres are cropland and \_\_\_\_\_ acres are pasture. Crops grown the operation include \_\_\_\_\_ [list crops grown and included in the NMP]. This operation, having an animal density of \_\_\_\_\_ AEUs/Acre, is defined as a \_\_\_\_\_ (Volunteer or Concentrated Animal Operation) [select] Operation under the PA Nutrient Management Act. The operation (is or is not) [select] considered a CAFO by the Department of Environmental Protection.

Manure application rates to cropland as outlined in the NMP are \_\_\_\_\_ [list the various application rates in the plan]. All manure application equipment has been calibrated to ensure the target rates can be achieved [or state that manure will be applied by a custom hauler whose equipment has been properly calibrated]. Additionally, \_\_\_\_\_ [manure type] manure is planned to be imported from \_\_\_\_\_ [exporting operation] and applied at \_\_\_\_\_ [list application rate]. [OR] Additionally, \_\_\_\_\_ [manure type] manure is planned to be exported to \_\_\_\_\_ [list importing operation(s)] and applied at according to the submitted Nutrient Balance Sheets.

The plan identifies several areas of concern to address manure management and storm water issues and lists the following best management practices to address these issues:

\_\_\_\_\_ [list BMPs outlined in the plan].

In closing, based upon my technical review and site visit, I believe the requirements of the Pennsylvania Nutrient Management Act and Regulations have been (or not been) [select] met; therefore, I recommend this plan for approval (or disapproval) [select].

If there are any questions regarding the plan or my recommendation, call our office at \_\_\_\_\_ [Phone<sup>4</sup>].

Sincerely,

Name<sup>5</sup>

Title

Name<sup>3</sup> County Conservation District

Cc: Planner

CD Chairperson Name<sup>1</sup> – This is the chair of the CD that will be acting on the NMP

CD Address<sup>2</sup> – Address of CD acting on the NMP

Name<sup>3</sup> – Your conservation District Name

Phone<sup>4</sup> – Your office phone number

Name<sup>5</sup> - Your Name

**SAMPLE PRE-DISAPPROVAL LETTER**

Date \_\_\_\_\_

CERTIFIED MAIL NO. \_\_\_\_\_

Operator Name [Name<sup>1</sup>]

Farm Name (*if used in NMP*)

Operator address

Operator address

Re: Status of submitted [Name<sup>1</sup>] Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. [Name<sup>1</sup>],

The [Name<sup>2</sup>] County Conservation District ( \_\_ CCD [Name<sup>2</sup>] ) received the initially proposed Nutrient Management Plan (NMP, or plan) for your animal operation located at [Address<sup>3</sup>], on [Date<sup>4</sup>]. [Name<sup>2</sup>] also received subsequent submissions or versions of that plan on [Date<sup>5</sup>], and has determined that significant deficiencies still remain. The plan does not meet the requirements of the Nutrient Management Act regulations. If the following deficiencies are not addressed within 30 days, your plan will be recommended for disapproval.

1. \_ [Reference<sup>6</sup>]

2.

Should you have any questions regarding the above deficiencies, please contact [Name<sup>7</sup>] to discuss the plan or schedule a meeting. The discussion or meeting must be scheduled within the 30-day period allotted for your reply. Please be advised that if your operation is a CAO and the plan is disapproved for the first time, you will have 90 days after receipt of the notice of disapproval to resubmit a revised plan in accordance with Section 83.361(e) of the regulations.

Please feel free to call me at \_\_\_\_\_ if you have any questions.

Sincerely,

John Doe [Name<sup>7</sup>]

[Name<sup>2</sup>]

Title

cc: Author of plan

File

Name<sup>1</sup> = Name on NMP: Operator's and/or Farm name. **NMP Pre-disapproval Letters must be addressed to operator (not planner). Planner is copied.**

Name<sup>2</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Date initial plan submission was received (most likely not in final form)

Date<sup>5</sup> = Dates subsequent versions to the initially submitted plan were received (but not yet in final form). List each revision.

Reference<sup>6</sup> = Listed deficiencies need to be clear and specific, and with enough detail for the planner to clearly understand what still needs to happen.

Name<sup>7</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

## **SAMPLE DISAPPROVAL LETTER**

Date \_\_\_\_\_

CERTIFIED MAIL NO. \_\_\_\_\_

Operator Name **[Name<sup>1</sup>]**

Farm Name (*if used in NMP*)

Operator address

Operator address

Re: Disapproval of submitted Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. **[Name<sup>1</sup>]**,

The **[Name<sup>2</sup>]** County Conservation District ( \_\_ CCD **[Name<sup>2</sup>]**) received the latest version of proposed Nutrient Management Plan (NMP, or plan) on **[Date<sup>3</sup>]** for your animal operation located at **[Address<sup>4</sup>]**. Please be advised that the **[Name<sup>2</sup>]** has completed its review of the plan in accordance with the requirements of the Nutrient Management Act, Act 38 of 2005, 3 P.S. §§1701-1719, and the regulations adopted thereunder at 25 Pa. Code Chapter 83, Subchapter D. Based upon that review, your NMP is hereby disapproved in accordance with Sections **[Reference<sup>5</sup>]** 83.\_\_\_\_\_, 83.\_\_\_\_\_, 83.\_\_\_\_\_ of Chapter 83 for the following reasons:

1. **[Comments<sup>6</sup>]**

2. **[Comments<sup>6</sup>]**

As required by Chapter 83.361(d), you may resubmit a revised plan to the district for review. If your operation is a Concentrated Animal Operation (CAO) and required to develop and implement a plan under Act 38 of 2005, you are required to resubmit a revised plan within 90 days of the date of this letter.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, or call 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Sincerely,

[Name<sup>7</sup>]

[Name<sup>2</sup>]

Title

Enclosed:

Appeals of District Decisions on NMA Delegated Responsibilities

cc: Author of plan

District Nutrient Management Specialist (*if different than signature on letter*)

State Conservation Commission Regional Coordinator

DEP if Operation is a CAFO

**Name<sup>1</sup>** = Name on NMP: Operator's and/or Farm name. **NMP Disapproval Letters must be addressed to operator (not planner). Planner is copied.**

**Name<sup>2</sup>** = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

**Date<sup>3</sup>** = Date last version of submitted plan was received (most likely not in final form)

**Address<sup>4</sup>** = Site address (minus the state and zip code)

**Reference<sup>5</sup>** = Reasons for disapproving the plan need to be supported by references out of the Act, or the regulations.

**Comments<sup>6</sup>** = Comments need to be clear and specific, and with enough detail that the planner clearly understands what you are asking of them.

**Name<sup>7</sup>** = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

*\*Make sure to include enclosure*

**SAMPLE**  
**YEARLY PLAN SUBMISSION or PLAN UPDATE [chose one] ACKNOWLEDGEMENT**  
**LETTER**

Date \_\_\_\_\_

Operator Name

Farm Name (*if used in NMP*)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, [*Operator's Name*]

The [*Name<sup>1</sup>*] County Conservation District ( \_\_ CCD, or District [*Name<sup>1</sup>*]) received the proposed Nutrient Management Plan (NMP) Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted] on [*Date<sup>2</sup>*], for your animal operation located at [*Address<sup>3</sup>*]. Your current approved NMP (planned for crop year (s) [*Date<sup>4</sup>*] was approved on [*Date<sup>5</sup>*]. This Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted] seeks to extend that NMP approval through crop year [*Date<sup>6</sup>*]. This yearly plan submission or plan update [CD chose the appropriate document submitted] will expire on September 30, 20\_\_ (*Date<sup>7</sup>*).

[*Name<sup>1</sup>*] has performed an administrative review on this yearly plan submission or plan update [CD chose the appropriate document submitted] and has determined that it meets program requirements outlined in the Pennsylvania Nutrient Management Technical Manual. ***This letter serves to acknowledge that the yearly plan submission or plan update*** [CD chose the appropriate document submitted] ***has been accepted and will be placed in your Nutrient Management Plan file.***

Concentrated Animal Feeding Operations (CAFOs) have an additional obligation to make sure DEP has a copy of their most recent NMP (or any Yearly plan submissions or plan updates) on file with their CAFO permit. If you have not already done so, it is your responsibility to make sure a copy of this yearly plan submission or plan update [CD chose the appropriate document submitted] is provided to the appropriate DEP regional office. [*Paragraph not necessary for non-CAFO NMPs*]

**To remain in compliance with** Act 38, you must continue to implement the plan (including the most recent yearly plan submission or plan update) [CD chose the appropriate document submitted] according to the specific **Nutrient Management Act Obligations** outlined in the original approval letter dated (*Date<sup>11</sup>*), which is enclosed for your reference. Please note that you will also need to ensure that a certified NMS completes a triennial plan review by (*Date<sup>9</sup>*). The limited liability provision of the Act is afforded only to those operators that are implementing their approved plan according to schedule and maintaining the required records.

In conclusion, you are legally obligated to follow all provisions of your approved Nutrient Management Plan, and accepted yearly plan submissions or plan update [CD chose the appropriate

document submitted]. You cannot deviate from the practices outlined in the NMP, or the [Date<sup>2</sup>] yearly plan submission or plan update [CD chose the appropriate document submitted], without formally revising your approved Nutrient Management Plan through a Pennsylvania Certified Nutrient Management Specialist.

If you have any questions about this letter or your requirements under the Nutrient Management Program, please feel free to call me [Name<sup>10</sup>], at (\_\_\_\_) \_\_\_\_-\_\_\_\_ and I will be glad to provide any additional assistance.

Sincerely,

[Name<sup>10</sup>],

Title

Enclosures:

Original plan approval letter  
Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan  
Michael Aucoin, SCC (*if author is provisionally certified*)  
DEP if Operation is a CAFO

Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>2</sup> = Date yearly plan submission or plan update was received by CD

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Crop year for which current NMP was planned (October, 20\_\_\_\_ - September, 20\_\_\_\_)

Date<sup>5</sup> = Date your BOD took action on the current approved NMP

Date<sup>6</sup> = Crop year planned under submitted yearly plan submission or plan update

Date<sup>7</sup> = Date yearly plan submission or plan update will expire. Beginning of next crop year (October 1, 20\_\_\_\_) needing to be planned.

Date<sup>9</sup> = Date will be the same as Date<sup>7</sup>

Name<sup>10</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

Date<sup>11</sup> = Date of original plan approval letter

*\*Make sure to include enclosures*



**SAMPLE**  
**NMP ACKNOWLEDGEMENT LETTER FOR NMPS SUBMITTED AFTER MANURE**  
**IS APPLIED OR EXPORTED IN THE CROP YEAR**

Date \_\_\_\_\_

Operator Name  
Farm Name (*if used in NMP*)  
Operator address  
Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, [*Operator's Name*]

The [*Name<sup>1</sup>*] County Conservation District (\_\_\_ CCD, or District [*Name<sup>1</sup>*]) received the proposed Nutrient Management Plan (NMP) on [*Date<sup>2</sup>*], for your animal operation located at [*Address<sup>3</sup>*]. Your current approved NMP planned for crop year (s) [*Date<sup>4</sup>*] was approved on [*Date<sup>5</sup>*], and expired [*Date<sup>x</sup>*] without being formally amended or updated. This proposed [*Date<sup>2</sup>*] NMP submission was acknowledged by [*Name<sup>1</sup>*] as temporarily meeting your regulatory compliance under Act 38 of 2005 until September 30, [*Year<sup>7</sup>*] the end of the current crop year.

[*Name<sup>1</sup>*] has performed a technical review on this NMP and has determined that it meets program requirements outlined in the Pennsylvania Nutrient Management Technical Manual. ***This letter serves to acknowledge that the NMP cannot be approved, but has been accepted as a temporary measure and will be placed in your Nutrient Management Plan file.***

***Please note that this NMP was submitted after your current NMP [*Date<sup>4</sup>*] expired, and after which manure was applied or exported from your operation, both of which are a violations of Act 38. Therefore, this one-year NMP has been reviewed and acknowledged but cannot be officially approved. This acknowledgment of planning proficiency is tied to the approval of your NMP for Crop Years [XXX – XXX].***

Concentrated Animal Feeding Operations (CAFOs) have an additional obligation to make sure DEP has a copy of their most recent NMP (or any Yearly plan submissions or plan updates) on file with their CAFO permit. If you have not already done so, it is your responsibility to make sure a copy of this NMP is provided to the appropriate DEP regional office. [***Paragraph not necessary for non-CAFO NMPS***]

**To remain in compliance with** Act 38, you must continue to implement this plan and the crop year [XXX-XXX] NMP that was approved according to the specific **Nutrient Management Act Obligations** outlined in the approval letter dated (*Date<sup>11</sup>*). Please note that you will also need to ensure that a certified NMS completes a triennial plan review by (*Date<sup>9</sup>*). The limited liability provision of the Act is afforded only to those operators that are implementing their approved plan according to schedule and maintaining the required records.

In conclusion, you are legally obligated to follow all provisions of your approved Nutrient Management Plan. You cannot deviate from the practices outlined in the NMP without formally revising your approved Nutrient Management Plan through a Pennsylvania Certified Nutrient Management Specialist.

If you have any questions about this letter or your requirements under the Nutrient Management Program, please feel free to call me [Name<sup>10</sup>], at (\_\_\_\_) \_\_\_\_-\_\_\_\_ and I will be glad to provide any additional assistance.

Sincerely,

[Name<sup>10</sup>],

Title

Enclosures:

Original plan approval letter  
Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan  
Michael Aucoin, SCC (if author is provisionally certified)  
DEP if Operation is a CAFO

Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter  
(ex. Adams County Conservation District (ACCD))

Date<sup>2</sup> = Date this NMP was received by CD

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Crop year for which current NMP was planned (October, 20\_\_\_\_ -  
September, 20\_\_\_\_)

Date<sup>5</sup> = Date your BOD took action on the current approved NMP

Date<sup>6</sup> = Crop year planned under this NMP

Date<sup>7</sup> = Date this acknowledged NMP will expire, which would be September 30<sup>th</sup> of the  
crop year the plans were submitted late.

Date<sup>9</sup> = Date will be 3 years from NMP approval (Date<sup>5</sup>)

Name<sup>10</sup> = Preferably this would be the reviewer of record. However, it could also be a  
district manager, or board chairman.

Date<sup>11</sup> = Date of original plan approval letter

*\*Make sure to include enclosures*

## **SAMPLE WAIVER ACKNOWLEDGEMENT LETTER**

Date:

Operator Name [Name<sup>1</sup>]

Farm Name (*if used in waiver request*)

Operator address

Operator address

Re: Manure storage setback waiver for [Name<sup>1</sup>] animal operation

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received your application for a waiver of the manure storage setback requirements in Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations. The Manure Storage Setback Waiver Application will undergo a series of reviews before a final decision is rendered by [Name<sup>3</sup>]. A brief explanation of the waiver application review process and approximate processing time is outlined below.

### **Waiver Coordination:**

Your waiver application will be discussed with the State Conservation Commission (SCC) and Natural Resources Conservation Service (NRCS) as a preliminary review to determine if it is in accordance with Section 83.351 of the Nutrient Management Act regulations. If it appears that other conditions are needed to obtain approval, we will notify you by phone or in writing.

### **Administrative Review:**

Administrative reviews generally include: Checking for the appropriate signatures, maps and application forms. The purpose of the administrative completeness review is to determine whether the required information and form are provided. It is not to evaluate the quality or content of the information. Administrative reviews for waiver applications are generally conducted within five days of the receipt of the application.

If the waiver application is incomplete, you will be notified by phone or letter. You will be given 30 days to submit the required information. If the information is not submitted within that time, the application will be considered withdrawn.

When an application is determined to be administratively complete, the District will provide the SCC Coordinator, along with the local NRCS office, with a copy of the proposed waiver along with any correspondence requesting assistance in completing the technical evaluation of the site relative to engineering and water quality concerns. You will be notified by letter that your application has been accepted. At that time, you will be given the name and phone number of the person to whom your waiver application has been referred to for review.

### Technical Reviews:

Technical reviews begin upon receipt of an administratively complete application and are performed by District staff with the assistance of SCC professional staff, along with NRCS staff and other personnel as deemed appropriate. The technical review includes: an analysis of the proposal for potential adverse environmental impacts, the completeness, clarity and soundness of engineering proposals, and conformance with applicable guidelines and regulations.

[Name<sup>3</sup>], with the assistance of the aforementioned personnel, will review the waiver application and all other relevant information. Involved parties will arrange to meet with you at the site to evaluate the proposed waiver. The on-site meeting will take place no later than 30 working days after the complete waiver application is received in our office. When the District has completed the technical review of your waiver application, a timely decision will be rendered. After notification by letter, you will be given 30 days to address missing or deficient technical items. A waiver may be denied for a number of reasons including: failure to supply the required information needed for a complete and comprehensive technical review, failure to show that the activity will not have an adverse impact on the environment, failure to satisfy all applicable program requirements, or in some cases, a negative compliance history of the applicant.

I hope you find this information helpful in understanding the waiver application review process. Please feel free to contact me if you have any questions.

Sincerely,

John Doe [Name<sup>4</sup>]

[Name<sup>3</sup>]

Title

Cc: DEP if Operation is a CAFO  
Planner

File

*Name<sup>1</sup> = Name on Waiver application: Operator's and/or Farm name.*

*Date<sup>2</sup> = Date District received operator's written request for a waiver*

*Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Name<sup>4</sup> = This most likely would be the reviewer of record, however it could also be the district manager, chairman, or other district staff person that has experience handling waivers for the district.*

## **SAMPLE WAIVER REQUEST APPROVAL LETTER**

Date:

Operator Name [Name<sup>1</sup>]

Farm Name (*if used in waiver request*)

Operator address

Operator address

Re: Manure storage setback waiver for [Name<sup>1</sup>] animal operation

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received your application for a waiver from the manure storage setback requirements in Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations. The proposed project site, located at [Address<sup>4</sup>], in \_\_\_\_\_ Township, \_\_\_\_\_ County was visited and evaluated on [Date<sup>5</sup>] by [Name<sup>3</sup>] in conjunction with staff from the State Conservation Commission (SCC), and/or USDA's Natural Resources Conservation Service (NRCS).

After thorough review, [Name<sup>3</sup>] has deemed that the waiver request requirements under section 83.351 has been satisfied for your specific proposed project, and therefore the proposed waiver at the site listed above is approved in accordance with the Nutrient Management Act requirements. Setback requirements for the construction of your proposed manure storage are waived pursuant to Section 83.351 of the Act 38 Nutrient Management Rules and Regulations. This waiver is approved with the understanding that it will not adversely affect water quality and the environment.

Please be aware that this Waiver Approval Letter will need to be included with your proposed, or forthcoming, Nutrient Management Plan (NMP). It is recommended that you keep a copy of this letter onsite as part of your other nutrient management, and construction records.

Should you have any questions concerning your waiver, please feel free to call \_\_\_\_\_ for further clarification.

Sincerely,

John Doe [Name<sup>6</sup>]

[Name<sup>3</sup>]

Title

cc: CD NM Specialist (*if signed by someone other than the plan reviewer of record*)  
Local NRCS staff that were involved  
SCC staff that were involved  
Planner

File  
DEP if Operation is a CAFO

*Name<sup>1</sup> = Name on Waiver application: Operator's and/or Farm name.*

*Date<sup>2</sup> = Date District received operator's written request for a waiver*

*Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Address<sup>4</sup> = Site address (minus the state and zip code)*

*Date<sup>5</sup> = Date district & NRCS made site visit to proposed project site*

*Name<sup>6</sup> = Preferably this would be the reviewer of record, however, it could also be a district manager or board chairman.*

**SAMPLE WAIVER REQUEST DISAPPROVAL LETTER**

Date \_\_\_\_\_ Certified Mail # \_\_\_\_\_  
Operator Name [Name<sup>1</sup>]  
Farm Name (*if used in waiver request*)  
Operator address  
Operator address

Re: Manure storage setback waiver for [Name<sup>1</sup>] animal operation

Dear: Mr. / Mrs. / Ms. [Name<sup>1</sup>]:

On [Date<sup>2</sup>] the [Name<sup>3</sup>] County Conservation District (\_\_ CCD [Name<sup>3</sup>]) received your application for a waiver from the manure storage setback requirements in Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations. The proposed project site, located at [Address<sup>4</sup>], in \_\_\_\_\_ Township, \_\_\_\_\_ County was visited and evaluated on [Date<sup>5</sup>] by [Name<sup>3</sup>] in conjunction with staff from the State Conservation Commission (SCC), and/or USDA's Natural Resources Conservation Service (NRCS).

After thorough review, [Name<sup>3</sup>] has deemed that the waiver request requirements under section 83.351 have not been satisfied; therefore, the setback waiver at the site listed above has been disapproved.

This decision may be appealed according to the enclosed notice. If you have any questions concerning this matter, please feel free to call me at \_\_ - \_\_\_\_\_.

Sincerely,

John Doe [Name<sup>6</sup>]  
[Name<sup>3</sup>]  
Title

Enclosed:  
Appeals of District Decisions on NMA Delegated Responsibilities

cc: CD NM Specialist (*if signed by someone other than the plan reviewer of record*)  
Local NRCS staff that may have been involved  
SCC staff that may have been involved  
Planner  
File  
DEP if Operation is a CAFO

Name<sup>1</sup> = Name on Waiver application: Operator's and/or Farm name. **Disapproval Letters need to go to operator (not planner).** Planner is copied

Date<sup>2</sup> = Date District received operator's written request for a waiver

Name<sup>3</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address<sup>4</sup> = Site address (minus the state and zip code)

Date<sup>5</sup> = Date district, NRCS, and/or SCC made site visit to proposed project site

Name<sup>6</sup> = Preferably this would be the reviewer of record, however, it could also be a district manager or board chairman.



New Waste Storage Facility (WSF) Certification  
State Conservation Commission  
Nutrient Management Program

Farm Name: \_\_\_\_\_ County: \_\_\_\_\_

Operator Name: \_\_\_\_\_

Address: \_\_\_\_\_

Operator's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**This WSF Certification Sheet covers the following practice(s):**

WSF and Components	PATG Code	Farm Field	Inst. Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**I, the undersigned Professional Engineer, certify that the above WSF has been designed in accordance with the appropriate PA Technical Guide standards.**

Engineering Firm/Agency: \_\_\_\_\_

Name/Title: \_\_\_\_\_ License No: PE \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**We, the undersigned Contractor of Record and Engineer of Record, certify that the above WSF has been installed in accordance with the appropriate design and construction standards outlined in the PA Technical Guide, and as specified in the site-specific project design.**

Contracting Firm: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Engineering Firm/Agency: \_\_\_\_\_

Name/Title: \_\_\_\_\_ License No: PE \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Nutrient Management Plan Review

### Approach, Process & Guidelines

#### ***Recommended Plan Review Process***

The review of an Act 38 NMP for recommendation for official approval involves three components: **Administrative Completeness Review, Technical Review, and On-Site Review**. In most cases, those three plan review components should occur in that sequence. This sequence is outlined below.

- **Administrative Completeness Review**
  
- **Technical Review (Initial In-Office Review)**
  - Cover Page & Appendix 1 (Complete Review)
  - Appendix 2 (Initial Overview – Information Gathering)
  - NMP Summary (Initial Overview – Information Gathering)
  - Appendices 9 & 10 (Initial Overview – Information Gathering)
  - Appendix 3 (Complete Review)
  - Appendices 4 & 5 (Complete Review)
  - Appendices 6 & 7 (Initial Review)
  - Appendix 8 (Complete Review)
  - Appendices 2, 9 and 10 & NMP Summary (Complete Review)
  
- **On-Site Review**
  - Appendices 6 & 7 (Complete Review)
  - Plan Related Operation Records
  - Checklist of Noted Items (Initial In-Office Review)
  
- **Technical Review (Final In-Office Review)**
  - All NMP Sections (Complete Review)

Within the Technical Review a suggested sequence of reviewing the specific NMP sections is provided. This suggested sequence is based on an approach that attempts to initially obtain a comprehensive

birds-eye-view of the entire operation – its components, scope, resources and management. Before zeroing in on animal manure production, crop planning, and other details of the NMP, it is helpful to have in mind a “picture” of the entire operation. This provides perspective in determining if the “pieces” are accurate, realistic and sound.

It is recommended that new plan reviewers start with this sequence. As more experience is gained, each plan reviewer will develop their own approach and process.

During the plan review process observations and questions will arise that will commonly fall into one of the following categories:

- Mistakes, omissions, regulatory conflicts, etc. that the plan writer will be required to correct before the plan can be approved.
- Suggestions or recommendations to the plan writer regarding aspects of the plan that could be improved but are not required to be changed for plan approval.
- Aspects of the NMP which are not clear to the reviewer that will require contacting the planner during the review process in order to obtain needed insight or clarification.
- Specific things that need to be reviewed, checked, or clarified during the On-Site Review.

Each reviewer will need to develop a system of how to record and follow through with each of these types of observations and questions. Many reviewers print a paper copy of the plan and record review notes directly on the plan. This is an excellent approach for recording those issues that must be corrected by the planner. Making separate lists for the different types of observations, questions or notes listed above is another effective approach.

**New reviewers should read and become familiar with each section of the NM Technical Manual that corresponds to the section of the NMP being reviewed.**

### ***Administrative Completeness Review***

Review *Section V: Plan Review and Implementation* in the NM Technical Manual for more detailed guidance on the Administrative Completeness Review and the plan review administrative requirements. When the plan is received, the reviewer should:

- Date stamp the plan using the “Non-Final Form” stamp provided by the SCC.
- Conduct an Administrative Completeness Review within 10 days from the date of receipt of the plan.

- Provide notice to the operator indicating whether all of the required plan elements have been received.

**To be considered administratively complete the plan must:**

- Be completed using the required version of the NMP Standard Format Spreadsheet.
- Include all the required sections.
- Be for crop year(s) within the required date range.
- Contain all the required information (each section must be complete).
- Include current soil tests (dates) from laboratories using the appropriate tests (Mehlich 3 for P). These soil tests must meet the required acreage requirements.
- Include current manure analyses (dates).
- Include complete and appropriate manure equipment calibration information.
- Have no known issue that would stall the technical review of the plan.

<b><i>Cover Page</i></b>
--------------------------

**General Cover Page Guidelines**

- Conduct a complete technical review of the Cover Page.

**For Crop Year(s)**

- Act 38 NMPs span three crop years. Plans submitted for review and approval may include three separate annual plans for each crop year or one annual plan for the first crop year with the understanding that annual plans (updates) will be submitted (not for approval) for the two subsequent crop years.
  - Ascertain whether the plan submitted for review and approval contains three separate annual plans or the first of three annual plans.
- Crop years for planning purposes start on October 1. All CAFO plans must be submitted and approved before October 1 for applicable crop years. All CAO and VAO NMPs must be approved before any manure application in a crop year is planned to occur.
- Determine that a separate Excel document was used to plan each crop year. Using one Excel document to plan multiple crop years is not permitted. Evidence that one Excel document was used for multiple crop years will be found primarily in Appendix 4 and the NMP Summary.

**Operator's Name, Address & Telephone Number**

- The name of each owner of the operation must be included. For example, the names of both husband and wife if they are joint owners.
- Include name of farm if applicable.
- The address should be the mailing address of the primary owner.
- The phone number should be the owner's primary contact number.

**Planner's Name, Certification Number, Address & Telephone Number**

- Company logos can be included but the name and certification number of the planner submitting the plan must be included.
- The address should be the business mailing address of the planner.
- The phone number should be the planner's primary contact number.
- Check the PAPlants website to verify that the planner is currently certified. The name of the list you want is named NM Certified Specialist Search.

### **Administratively Complete Date**

- This is to be left blank in the submitted plan. The date is entered by the plan reviewer when the submitted plan is determined to be administratively complete.

### **Plan Approval Date**

- Left blank in submitted plan. Completed by reviewer when the plan is approved by the CD BOD or SCC.

### **Plan Update Submission Date(s)**

- This is to be left blank in the submitted plan update. Because plan review and approval is not required, the public specialist receiving the plan update would enter the date the plan update is received.

## ***Appendix 1***

### **General Appendix 1 Guidelines**

- Conduct a complete technical review of Appendix 1.
- Review the NM Technical Manual for guidance on how to administrate and review plans for the different programs.
- The reviewer must confirm during the on-site review that the planner has reviewed the NMP with the operator; at a minimum: the NMP Summary, Appendix 1, and Appendix 8. If the planner failed to review the plan with the operator, the reviewer must inform the Commission certification program staff of this fact.

### **Program Type Checkoff**

- Does the program designation provide sufficient direction on the how the plan must be reviewed?
- This may direct coordination with another agency for certain plan submission notifications and review activities.

### **Crop Year Checkoff**

- Determine that all the required plan sections have been submitted, particularly for 3-year plans.

### Verifications

- Have all the necessary verifications been confirmed and noted?
- The reviewer should confirm the existence and location of the Emergency Response Plan during the on-site review of the plan.
- An Act 38 NMP for a farm that does not have a Conservation or Ag E&S Plan meeting the requirements of Chapter 102 cannot be approved.
- Are rented acres properly documented in Appendix 2?

### Signatures, Dates, and Operator Title

- Are appropriate signatures and operator titles included in the submitted plan?
- This is one of the items for the administrative completeness review of the plan.

## ***Appendix 2***

### General Appendix 2 Guidelines

- Begin with an initial overview of Appendix 2 with the purpose of gathering information that will be helpful in the technical review of Appendices 3, 4 and 5 and the on-site review of Appendices 6 and 7.
- The final complete technical review should be done after the above reviews have been completed.
- Appendix 2 serves two very critical purposes:
  - It allows those who have no or little knowledge of the operation to “know” the operation. This part of the plan is not for the operator, but for the reviewer. It should paint a comprehensive detailed picture of the operation – location on the landscape, acreage size, cropping system, animals on the operation, housing and manure handling systems, manure storages and management, manure spreading equipment and calibration, and manure sampling procedures.
  - It provides details about the operation that are integral to the development of the plan and necessary in evaluating the accuracy of the plan.
- For each of the sections answer these questions:
  - Are required information items missing or incomplete? Please note that all required information that needs to be included is shown in the direction boxes in the NMP.
  - Are there “gaps” in the operation “picture” that you think should be filled in? Note: The planner may have provided all the required information, but did not tie it all together adequately. Don’t hesitate to call the planner with some clarification questions.
- Refer to the Operation Maps where applicable to compare and confirm the information provided.

### Operation Description

- The most common issue is incomplete or missing information. For example:

- Each manure group in the plan is not described.
- Crops are listed, but the rotation information is missing.
- Reviewers must insist that planners provide, at minimum, complete, detailed information for each of the categories listed in the standard Act 38 nutrient management plan.

### **County(s)**

- Ensure that all counties included in the plan's land base are listed.

### **Name of Receiving Stream(s)/Watersheds**

- Every NMP must indicate a "blue line stream" regardless of distance from operation.

### **Notation of Special Protection Waters**

- Reviewers should have a list of Special Protection Watersheds in their county. Ensure the accuracy of this notation.
- If Special Protection Watersheds are noted confirm that all operation fields in these watersheds are noted in Appendix 5: Phosphorus Index and evaluated with Part B of the Index.

### **Operation Acres**

- Total Acres
  - The NMP must note the acreage of all the lands that are an integral part of the animal operation.
  - These acres may be owned or rented and must be land under the management control of the operator.
- Total Acres Available for Nutrient Application Under Operator's Control
  - The NMP must note the total acres, owned and rented, that will receive nutrients during the normal cropping rotation.
  - This acreage number is used in the AEU/Acre calculation.

### **Names & Addresses of Owners of Rented or Leased Land**

- The NMP must include the names and addresses of owners of the rented and leased land.

### **Existing Manure Storages & Capacity**

- The most common issue is incomplete or missing information.

### **Manure Application Equipment Capacity & Practical Application Rates**

- The plan should list here the application equipment used, the specific calibrated rates, and calibration method used to determine these rates. Specific details such as equipment models,

settings, speeds, etc. are recorded in the NMP Summary. Ensure that there is consistency between the listed application rates.

- The calibration records should be reviewed during the site visit part of the review process to confirm what is recorded here.
- If a custom applicator is used, the plan must include a statement to this effect and that the application rates included in the plan can be achieved by the custom applicator's equipment.

## ***NMP Summary***

### **General NMP Summary & Summary Notes Guidelines**

- Begin with an initial overview of the NMP Summary with the purpose of gathering information that will be helpful in the technical review of Appendices 3, 4 and 5 and the on-site review of Appendices 6 and 7.
- The final complete technical review should be done after the above reviews have been completed.
- Review of this section provides an overview of the implementation of the nutrient management plan on the operation. Remember this is what the farmer will reference in implementing the plan.
- Most of the information in this section is imported from other sections of the plan.
- Therefore, don't get bogged down in a line-by-line, column-by-column review of the imported data, but do a fairly quick overview of the information.
- The litmus test of this section is - can the farmer use the summary, notes, farm map and have the information they need to manage and apply their manure.
- This part of the plan must be reviewed with the farmer by the planner. During the on-site visit part of the plan review, it must be determined that this review has taken place. A plan cannot be approved which was not reviewed with the farmer to ensure he understands and agrees with it.

### **NMP Summary**

- The overview approach to this section is two-fold:
  - Look over the summary with the "operation picture" developed in Appendix 2. Are the crops, manure types, manure groups, pasture management, application rates, etc. consistent with what you already "know" about the operation?
  - Look for things that might merit a closer review in other sections of the plan.
- Some common things to look for include:
  - Fields grouped into CMU or divided fields.
  - Fields included on the Operation Map but missing from the summary.
  - Acreage inconsistent with Operation Map.
  - Notation of pastures.
  - Crops not consistent with the crop rotation information.
  - Manure groups not consistent with the manure group information.
  - Manure groups with the season in the title, but applied in a different season.
  - Application seasons that are impractical, i.e., summer application to corn.
  - Manure application rates inconsistent with calibration information.
  - Extremely low application rates or rates in excess of 9000 gallons/acre.



- Incorporation time that is inconsistent with conservation tillage requirements on the operation.
- Notation of starter fertilizer programs or absence of starter fertilizer programs for crops, such as corn, that use starter.
- Notation of how supplemental fertilizer is handled in the plan.
- Existence of negative N balances.
- Crop Year – This is the first of five data entry parts of the NMP Summary.
  - Ensure that each nutrient application summary chart only addresses one crop year.
  - Total acres, owned acres, and rented acres need to be entered and match the acres that are detailed in Appendix 2.

### **Animal Equivalent Units**

- The number is calculated from data input in Appendix 3 of the spreadsheet and noted in the Nutrient Management Plan Summary.

### **Animal Equivalent Units Per Acre**

- This number is calculated from data input in Appendix 3 of the spreadsheet.
- There is no difference in the plan review process or requirements for CAOs and VAOs. However, you should be aware of the differences that you would expect to see in the plan itself.

### **NMP Summary Notes**

- Ensure that pastures and winter application CMU/Fields have the required information included in the notes. Notes are also required for crop management units that are receiving manure from small quantity manure groups and when combined manure application rates exceed 9,000 gallons.
- There are no additional requirements for the notes section; therefore, the remainder of the notes section is not “reviewable”. However, read the remainder of the notes and where appropriate note possible suggestions to the planners where the notes could be improved to better serve the farmer, or items, like application setbacks, which could be included.

### **Manure Spreader Calibration Notes**

- Ensure that the required information is provided for each application included in the plan.

### **Manure Management and Stormwater BMP Implementation Summary**

- This chart must include all BMPs listed in Appendices 6 and 7. At this point simply note what they are. During the review of Appendices 6 and 7 which include the onsite visit part of the review these BMPs should be confirmed as accurate and complete.
- All BMPs should include the specific practice name and code number from the PA Tech Guide. In some cases, specific management changes or actions may be listed in Appendices 6 and 7 which are not official BMPs. In those cases, the code column should be left blank or have an NA noted.

- General planning or record keeping requirements such as soil and manure testing, should not be included in the BMP chart.

### **In-Field Manure Stacking Procedures**

- Operations not using this practice must indicate this with a statement such as, “no field stacking of manure will take place on this operation”.
- Operations using this practice must include guidance for locating and forming the stacks and note that the stacks must be covered if in the field for more than 120 days.
- The Operation Map must include the location of these stacking sites.
- During the onsite visit part of the plan review, these sites should be evaluated to determine that the requirements outlined in Supplement 17 are being met.

### **Additional CAFO Requirements**

- If the operation will be field stacking manure, then this section of the plan must indicate that manure will need to be covered if stacked for more than 14 days, unless the manure is covered with an impermeable cover.
- If the operation will be storing manure (liquid or solid) over the winter, the winter manure storage capacity and useable space for all storages must be documented in this section of the plan. For liquid manure storages the winter manure storage capacity planning level must be expressed in feet. Solid manure storages require a narrative description that details the planning and management of the manure over winter, the anticipated manure production, and the solid manure storage (s) capacity. The usable storage height and usable storage volume in the storage facility on December 15 needs to be detailed in order to demonstrate that the operation will have adequate storage space to get through the winter storage period. Supporting information and calculations must be documented in Appendix 10.

### **Proposed Manure Storage Description**

- This section must be completed if the operation is proposing a new or expanded manure storage facility. This section does not address existing manure storage facilities listed in Appendix 2.
  - Are required information items missing or incomplete?
- The location does not need to be described in this section of the plan but must be indicated on the attached farm map.
- For proposed storage facilities that will require a setback waiver (see *Section III: Minimum Standards for Manure Storage Facilities* in the Tech Manual), the plan should not be approved until the waiver request has been approved by the relevant agency (generally the conservation district) or signed by the neighbor for property lines.

### **Description of Planned Alternative Manure Technology Practices**

- This section is only required to be completed if the operation will implement an alternative manure processing or treatment technology on the farm.

- If there are planned alternative technologies, are required information items missing or incomplete?

### **Exported Manure Summary**

- Operations exporting manure must include a brief description of the exporting arrangements. Operations not exporting manure should include a statement to that effect.
- Appendix 8 will be reviewed later for the specific details of the exporting arrangements.

### **Operator Management Map**

- Does the Operation Map(s) include all the required information? Are each of the required features clearly identified? Is the required legend complete and clear?
- Maps are only valid if they can be read. Sometimes these maps are too dark or they have other problems because they are copies of copies that they cannot be read and therefore should not be accepted.
- Determine if the fields and acres on the map, match the field acres in the plan. You do not need to check every field, but a random sample is adequate.
- If fields are grouped in the plan, the map should give some indication if the grouping makes sense.

## ***Appendix 9***

### **General Appendix 9 Guidelines**

- Begin with an initial overview of Appendix 9 with the purpose of gathering information that will be helpful in the technical review of Appendices 3, 4 and 5 and the on-site review of Appendices 6 and 7.
- The final complete technical review should be done after the above reviews have been completed.

### **Considerations**

- Soils and topographic maps are required for all lands (owned or rented) included in the plan.
- Ensure that the Soils Map includes the operation and field boundaries, soil types and slopes with a soil's legend. Review the soil types to become familiar with associated properties and production capabilities (use Table 1.1-1 in the Penn State Agronomy Guide).
- Ensure that the Topographic Map drawn to scale and include at a minimum the operation boundary lines. The maps should be printed so that the elevations on the topo lines can be read. Sometimes these maps are zoomed in too close that you do not get the topo line elevations showing up on the printed map, which is not acceptable.
- Review both maps to get a feel for the lay of the land, water flow, and related manure management concerns.
- Note if P Index "contributing distance" lines are included. These, while not required, are helpful in reviewing the transport factors in the P Index.

## ***Appendix 10***

### **General Appendix 10 Guidelines**

- Begin with an initial overview of Appendix 10 with the purpose of gathering information that will be helpful in the technical review of Appendices 3, 4 and 5 and the on-site review of Appendices 6 and 7.
- The final complete technical review should be done after the above reviews have been completed.

### **Considerations**

- Note things that will be included in Appendices 3, 4 and 5 such as bedding or rainwater calculations.
- Considering what is already known about the operation and its management is there required information missing. For example, if winter application of manure was noted in the NMP Summary, then the winter application matrix should be included.
- Explanations or background information regarding unique aspects of the plan.

## ***Appendix 3***

### **General Appendix 3 Guidelines**

- The complete technical review of Appendix 3 should follow the initial overview of the NMP Summary and Appendices 2, 9 and 10. Compare the following for consistency:
  - NMP Summary Table (manure groups, application seasons, pastures & uncollected manure)
  - NMP Summary Notes (pasture/grazing & winter application notes)
  - Proposed Manure Storage Description (if applicable)
  - Appendix 2: Operation Description (manure group management)
  - Appendix 2: Existing Manure Storages & Capacity (manure group management during storage manure removal, manure group sampling procedures)
  - Appendix 10 (rainfall additions worksheet, documentation of animal weights, bedding calculations, wastewater calculations, small quantities of manure) as necessary throughout the review of Appendix 3.
- Scan Appendix 3 to make sure there are no obvious spreadsheet errors indicated by “unusual” words and/or symbols.

### **Manure Production Inventory Method**

- Note whether manure production inventory is determined by calculation or the use of operation records.

- After 3 years of implementation of the initial plan for an operation, manure inventory in all future plans should be based on operation records.

### **Manure Groups**

- Ensure that the manure groups and the associated animal groups are consistent with the descriptions in Appendix 2.
- Ensure that the manure group determination is consistent with the guidance provided in the Nutrient Management Program Technical Manual.

### **Manure Analysis Information**

- Ensure that all manure groups have manure analysis values and not book values unless the manure group is exempt or permitted a one-year variance as outlined in the Act 38 regulations and the Nutrient Management Program Technical Manual. For manure groups using the one-year variance, ensure that documentation is included in the plan specifying when the sample and analysis will be obtained.
- Ensure that the most recent manure analysis for each manure group entered in the Manure Average Input page is current within one year. Ensure that the previous 4 years of manure analysis results, if applicable, are entered in the Manure Average Input page. Ensure that the manure analysis dates are consistent with the manure sampling procedures outlined in Appendix 2.
- The percent solids value must be entered as an actual numerical value in the spreadsheet. The < or > symbols can never be used with the numerical value.
- All manure reports used to report the manure nutrient values must be maintained on the operation or included in Appendix 10 and must be verified during the on-site evaluation.

### **Manure Group Description: Site & Season Applied**

- Ensure that the site designations are the specific storage facilities or sites where manure is removed for land application.
- Ensure that the specific season of application (spring, summer, early fall, late fall or winter) is noted.

### **Animal Group Information: Type, Number and Weight**

- Ensure that animal numbers are consistent with the descriptions in Appendix 2.
- Ensure that animal weights are consistent with Standard Animal Weights, and if different, that adequate documentation is provided in Appendix 10.

### **Uncollected Manure Information**

- Ensure that the uncollected manure inputs (days and hours/day on pasture) are consistent with the information provided in the NMP Summary Notes for the pasture fields.

- **SPREADSHEET QUIRK:** Note animal groups whose grazing season spans multiple manure group seasons. If the animal groups in these scenarios are not given different names in each manure group, the spreadsheet will automatically note that the manure is already allocated for every manure group other than the first one, and that volume of uncollected manure will not appear in Appendix 4 for allocation.

### **Manure Volume Additions**

- Compare values for bedding, washwater, and rainwater with documentation in Appendix 10.
- Check Rainfall Additions Worksheet inputs for consistency with information provided in Appendix 2 and the manure group determination in Appendix 3.

### **Manure Allocation Balance & Manure Exported Off-Farm**

- Note positive numbers in the Manure Allocation Balance row. Positive numbers indicate manure that has not been allocated for land application or exported off the farm. Determine that the amount of unallocated manure does not exceed 5% of the total amount of manure collected in the manure group.
- Note negative numbers in the Manure Allocation Balance row. Negative numbers indicate manure that has been over-allocated. Ensure that the amount of over-allocated manure is within the allowances outlined in the Nutrient Management Program Technical Manual.

## **Appendix 4**

### **General Appendix 4 Guidelines**

- The complete technical review of Appendix 4 should follow the initial overview of the NMP Summary and Appendices 2, 9 and 10 and the complete review of Appendix 3. In particular, compare the following for consistency:
  - Appendix 2: Operation Description (crop rotation - crops, sequence and years)
  - Appendix 3 (manure groups and season applied)
  - NMP Summary: Manure Spreader Calibration Notes (calibrated rates)
  - NMP Summary: Exported Manure Summary
  - NMP Summary: Operation Maps
- Refer to Appendix 10 and the soils and topographic maps as necessary.
- Scan Appendix 4 to make sure there are no obvious spreadsheet errors indicated by “unusual” words and/or symbols.

### **Keep in mind overarching considerations:**

- Does the allocation of nutrients and manure management practices reflect sound agronomic and nutrient management principals?
- Are environmental concerns adequately considered?

**Make an initial check for the use of multiple applications.**

- Are the multiple manure applications in the correct sequence for the crop year?
- Do the “nutrient balance after manure” values for the first (or prior) manure application match the “net nutrients required” values for the second (or next) manure application?
- There should be no final nutrient balance for multiple applications until the final application.

**Make an initial check for the use of double crops.**

- Double crops need to be planned separately and in the correct sequence during the crop year. The winter crop needs to be planned before the summer crop for the spreadsheet to allocate the N carryover to the summer crop.

**Answer the following questions for each of the following Appendix 4 input values:**

- **Crop Year** – Crop year consistency with timing of plan submission should have been completed during the NMP Summary review.
- **CMU/Field ID** – Field ID consistency with the farm maps should have been completed during the NMP Summary review. Are multiple fields combined into one CMU? If so, do these fields have the same crop, a unique management history, similar production capacity, and are they managed distinctly as a unit? Are single fields subdivided into multiple CMUs? If so, what is the reason for this subdivision and is it realistic?
- **Acres** – Acreage consistency with the farm maps should have been completed during the NMP Summary review. Is pasture acreage accurate due to significant heavy use areas or wooded areas that should be accounted for?
- **Soil Test Report Date** – Are report dates within three years of when submitted? Are there soil test reports for multiple fields (same date and values for more than one field), and if so, are they for 20 acres or less and do they meet the requirements listed above for combining fields into a CMU? Soil test reports should be evaluated during the plan review site visit.
- **Laboratory Name** – Is the lab one who commonly does business in Pennsylvania? If the lab is not a common one, do they use the appropriate analytical tests.
- **Soil Test Levels** – Are soil test levels consistent with farm history? Are there any low (acidic) pH levels?
- **P Index Part A** – Are the selections accurate? Are they consistent with ppm P levels, proximity to streams on operation maps, special protection watersheds, and significant management changes on the operation?
- **Crop** – Crops grown on the operation should have been noted during the NMP Summary review. Are the selections correct for legume crop fields receiving manure?

- **Planned Yield** – Are yields realistic?
- **Soil Test Recommendation** – Check if user recommendations were used in place of PSU recommendations? If so, are the recommendations consistent with Penn State AASL recommendations? This consistency check can be done quickly by comparing the nitrogen recommendations in the plan with the N recommendation tables in the Agronomy Guide and recommendations for soil test levels >50 ppm P. Are the appropriate recommendations selected for double crops?
- **Other Nutrients Applied** – The type and number of starter fertilizer programs or other planned fertilizer programs regardless of manure should have been noted during the NMP Summary review.
- **P Index Application Method** – Has a method been selected and is it accurate?
- **Manure History Description** – Does the entire range of histories across the fields seem consistent with the crop rotation described in Appendix 2?
- **Legume History Description** – Are there legumes in the rotation? Do the residual amounts seem realistic? Do the rotated acres and corresponding legume residuals seem (quick assessment) consistent with the described crop rotation? In a double crop scenario, is the legume residual applied to the summer crop and not the winter crop?
- **Manure Group** – Are the manure group selections consistent with agronomic considerations (season of application, type of crop, etc.)?
- **Application Season/Application Management** – Application season and management and consistency with the crop (or cover crop) receiving manure should have been considered during the NMP Summary review. Are multiple manure applications to one field in the correct sequence?
- **P Index Application Method** – Has a method been selected and is it accurate?
- **P Index Value** – All fields requiring Part B of the P Index should have a value in this field. Note any “PI Incomplete” messages. Fields with the “PI Incomplete” message will also have the same message in Appendix 5 in the P Index Value row (30). The cause of this message is missing information in the Appendix 4 Input page for that field. Either one or more of the three “P Index Application Method” selections have not been selected or one or more of the “P Index Transport Factors” have not been entered. See Appendix 5 – P Index Value for more detail.
- **Planned Manure Rate** – The planned manure rates selected and their consistency with calibrated rates noted in Appendix 2 should have been determined during the NMP Summary review. Are the planned rates under the appropriate balanced rate – always N and P as required by the P Index? For pastures, is the planned rate the actual rate per acre of the amount of calculated uncollected manure from Appendix 3? Manure rates over 9000 gallons per acre should have been



noted during the NMP Summary review. Manure spreader calibration records should be evaluated during the plan review site visit.

- **Supplemental Fertilizer** – The approach used to address supplemental fertilizer should have been noted and evaluated during the NMP Summary review.
- **P Index Application Method** – Has a method been selected and is it accurate?
- **Other Items** – Are final nutrient balances under the required (N or P) net requirements?

## **Appendix 5**

### **General Appendix 5 Guidelines**

- The complete technical review of Appendix 5 should follow the initial overview of the NMP Summary and Appendices 2, 9 and 10 and the complete review of Appendices 3 and 4.
- Refer to Appendix 10 and the soils and topographic maps as necessary.
- Scan Appendix 5 to make sure there are no obvious spreadsheet errors indicated by “unusual” words and/or symbols.

### **Source Factors**

- All source factors are entered from Appendices 3 and 4. Consistency of Fertilizer and Manure Application Methods with Manure Application Season and Management should have been checked in Appendix 4.
- Ensure that pastures have surface application methods (0.6 or 0.8).
- Fields within 150’ of receiving waters should be evaluated more carefully.

### **Transport Factors**

- Are all transport factors entered? Check for the “Check Transport” message in the Transport Sum rows (27 & 29). This message indicates that one or more transport factors were not entered in the Appendix 4 Input page for that field.

### **Answer the following questions for each of the following Transport input values:**

- **Erosion** – The erosion value used in the P Index should be Actual (A) Soil Loss and not Tolerable (T) Soil Loss and should be determined by using the Revised Universal Soil Loss Equation (RUSLE). What is the source of the soil erosion values? Look for RUSLE calculations in Appendix 10 or the Conservation or Ag E&S Plan. The following inputs should raise questions: erosion values that exceed 5 T/A (maximum “T” value in Pennsylvania) and the same erosion value for all fields. This probably means “T” has been used for all fields. It is important to check 1) if the Conservation or Ag E&S Plan has been fully implemented to “T”, and 2) if the actual erosion values are from the Conservation or Ag E&S Plan or calculations. If actual soil loss values are not available, the planner

must contact the regional nutrient management coordinator. The direction provided by the coordinator should be noted in Appendix 10. Verify field condition during plan review site visit, especially for fields within 150' of receiving water.

- **Runoff Potential** – Review the soils map and information. Evaluate more closely fields within 150' of receiving waters. Spot check other fields for consistency based on soil types.
- **Subsurface Drainage** – Review any information that may be submitted with the plan. Most likely this information will need to be verified during the plan review site visit.
- **Contributing Distance** – Are the contributing distance values entered consistent with the field boundaries, water bodies, and buffers on the farm maps? Ensure that all fields within 150' of receiving water have been identified. Check buffer conditions during site visit. During the plan review site visit evaluate pastures to ensure that the five specified buffer conditions have been met. Spot check other fields for consistency with farm maps.
- **Modified Connectivity** – Refer to the Operator Management Map for existing BMPs. During the plan review site visit confirm these with visual assessment and by asking the farmer.

#### P Index Value

- Note any "PI Incomplete" messages. Fields with the "PI Incomplete" message will also have the same message in Appendix 4 in the P Index Value row (30). The cause of this message is missing information in the Appendix 4 Input page for that field. Either one or more of the three "P Index Application Method" selections have not been selected or one or more of the "P Index Transport Factors" have not been entered. In addition to the "PI Incomplete" message, the following messages will appear will specific missed inputs in the Appendix 4 Input page:
  - "P Index Application Method" for starter fertilizer: "E" in row 13, "Check Fert" in row 16, and "Check Source in row 21.
  - "P Index Application Method" for supplemental fertilizer: "E" in row 15. Note: This is the only error message that will appear for this missed input.
  - "P Index Application Method" for the manure application: "E" in row 18, "Check Manure" in row 20, and "Check Source in row 21.
  - "Transport Factors": "Check Transport" in rows 27 and 29.

## Appendix 6

#### General Appendix 6 Guidelines

- Conduct an initial in-office technical review of Appendix 6 and prepare a list of specific things to evaluate and questions to answer during the on-site review.
- Conduct the on-site review. Refer to the On-Site Review Guidelines & Checklist below.

### **Date of Site Evaluation**

- The date the site evaluation was conducted must be recorded. Failure to conduct the site evaluation or record the date renders the NMP incomplete.

### **Statement Documenting Areas Evaluated During Site Evaluation**

- Each specific site or area evaluated must be listed in this section. General statements are not adequate, i.e., “...all the manure storages were evaluated...”
- This list and description needs to be farm specific. Generic “canned” statements are not acceptable.

### **Identification of Inadequate Manure Management Practices and Conditions**

- Each identified inadequate manure management practice must be listed with the associated site or area.

### **BMPs to Address Manure Management Problem Areas**

- Each inadequate manure management practice must be addressed by an agreement to install appropriate and adequate BMPs (example: “Install a Heavy Use Area Protection – 561) or to change management (example: “Scrape the barnyard weekly.” or “Move the round bale feeder off the streambank.”)
- The BMPs must be included on the Manure Management and Stormwater BMP Implementation Summary table in the NMP Summary. Reference to BMPs must be consistent with the practice names, codes and units used in the PA Technical Guide.
- Requirements of ongoing NMP implementation and record keeping, such as soil testing and manure testing should not be listed in summary table.

## ***Appendix 7***

### **General Appendix 7 Guidelines**

- Conduct an initial in-office technical review of Appendix 7 and prepare a list of specific things to evaluate and questions to answer during the on-site review.
- Conduct the on-site review. Refer to the On-Site Review Guidelines & Checklist below.
- An Act 38 NMP for a farm that does not have a Conservation or Ag E&S Plan meeting the requirements of Chapter 102 cannot be approved.

### **Date of Site Evaluation**

- The date the site evaluation was conducted must be recorded. Failure to conduct the site evaluation or record the date renders the NMP incomplete.

### **Statement Documenting Areas Evaluated During Site Evaluation**

- A statement documenting the areas evaluated on all crop fields and pastures included in the plan, both owned and rented.

### **Identification of Critical Runoff Problem Areas**

- The location of each identified critical runoff problem area must be listed. These are areas defined as non-vegetated gullies or ditches that discharge directly to a stream or other water body.
- A common mistake is to list more minor erosion problems on the farm. These are addressed in the overall Chapter 102 Conservation of Ag E&S Plan.

### **BMPs to Address Critical Runoff Problem Areas**

- Each critical runoff problem area must be addressed by an agreement to install appropriate and adequate BMPs.
- The BMPs must be included on the Manure Management and Stormwater BMP Implementation Summary table in the NMP Summary. Reference to BMPs must be consistent with the practice names, codes and units used in the PA Technical Guide.
- Requirements of ongoing NMP implementation and record keeping, such as soil testing and manure testing should not be listed in summary table.

## ***Appendix 8***

### **General Appendix 8 Guidelines**

- Conduct an initial in-office technical review of Appendix 8 and prepare a list of specific things to evaluate and questions to answer during the on-site review.
- Conduct the on-site review for operations exporting manure to known operations for agricultural land application. Refer to the On-Site Review Guidelines & Checklist below.

### **Exporter Agreements**

- Ensure that the plan includes appropriate agreements for each importer or broker taking the manure that are fully completed, signed and dated.

- If using a broker, ensure that the broker is a certified broker under Act 49. Check on the PAPAPlants website or with the staff at PDA.
- When using a broker, manure cannot be applied back on the exporting farm (no longer exported manure) or to land the broker manages (the broker is then an importer).
- Make sure that Nutrient Balance Sheet Summary and the Nutrient Balance Worksheets are completed for each importer.
  - Give these NBSs a quick review to see if there are any obvious issues that indicate they were developed inappropriately or inaccurately.
  - Ensure the NBS information is complete regarding the NBS planning option used:
    1. If option 1 used, make sure P applications are within the appropriate phosphorus removal rate.
    2. If option 2 is used, make sure all the soil tests are listed on the farm and all the tests for the selected fields don't exceed 200 ppm P.
    3. If option 3 is used, make sure the P Index is complete for each field using this option.
- Ensure maps are included with the NBSs and that the appropriate setbacks are delineated on the maps. This does not require a site visit on each importer. If there are concerns an on-site visit should be conducted. You do have the right to coordinate with the importer to visit the site if you believe that is necessary.
- Ensure that the application rates seem reasonable.
- If manure is applied during the winter, the winter matrix must be included.

### ***On-Site Review Guidelines & Checklist***

The following list outlines areas that must be evaluated during the on-site review.

#### **In-Office Review List**

- Make sure that each of the items noted during the in-office review are addressed.

#### **Records Not Submitted With Plan**

- The following items that are required to be maintained on the operation should be reviewed. Spot checks of soil and manure reports are recommended unless there is reason for a more thorough review.
  - Soil Test Reports
  - Manure Analysis Reports
  - Manure Spreader Calibration Records
  - Operation's Emergency Response Plan (ERP)
  - Conservation Plan or Ag E&S Plan meeting Chapter 102 for all acres contained in the submitted NMP. Is the NMP consistent with the conservation plan?

## Appendix 5 – Phosphorus Index

- Check the following phosphorus index issues for a representative number of fields:
  - Distance from a stream
  - Buffers listed in the plan for near stream fields including pastures [*Important*]
  - Direct connections for distant fields [*Important*]
  - Erosion numbers from the conservation plan

## Appendix 6 – Manure Management

- This part of the on-site review should be conducted as if you were writing the NMP.
- Evaluate and confirm the following:
  - Were all manure management related areas on the operation listed as evaluated in the plan?
  - Existing manure storages (size, duration of storage, integrity, maintenance).
  - ACAs (size, location, collection of manure, runoff). All pastures must be walked and checked for congregation areas that have a direct discharge.
  - Do you agree with the planner's assessment of inadequate manure management practices and proposed BMPs?
  - New storage locations (setback issues) and emergency stacking sites (if included in the plan).
  - Briefly interview the operator to determine what aspects of this evaluation the planner discussed with him. What questions does the operator have about identified inadequate manure management practices and selected BMPs to address identified problems?

## Appendix 7 – Stormwater Control

- This part of the on-site review should be conducted as if you were writing the NMP.
- Evaluate and confirm the following:
  - All crop fields and pastures included in the plan, both owned and rented.
  - Do you agree with the planner's assessment of critical runoff problem areas and proposed BMPs?

## General Plan Issues

- The following areas are possible areas that could be assessed by observation or discussion with the operator. If comfortable with the information in the plan further assessment is not necessary. If not comfortable, they should be assessed during the on-site review. Those that should be evaluated during each on-site review are noted with (*Important*).
  - Animal numbers per species and per growth stage
  - Crop rotation
  - Crop yields
  - Crop acres
  - Commercial fertilizer used
  - Evidence of past crop history (alfalfa or grass, bare ground or cover, etc.)
  - Manure application procedures, incorporation, etc. (*Important*)
  - Type of tillage used on the farm. Do the NMP and Ag E&S plan agree? (*Important*)
  - Manure application setbacks (*Important*)
  - Field stacking locations (*Important*)

- Pasture condition – is it really a pasture? (Important)
- Fields proposed for fall and winter application of manure (Important)

### **Exported Manure Importing Farms**

- Check farm receiving exported manure for the following for manure importing sites (this could be done outside of site visit if prior knowledge of the area):
  - Does the map adequately represent the importing operation (location of fields and setback areas)?
  - Does the signed agreement and NBS adequately represent other animals, other manures, total acres, crops and yield potential for the importing operation?

## Letter Acknowledging Receipt of Nutrient Balance Sheets

Date \_\_\_\_\_

Commercial Manure Broker (Broker) or Nutrient Management Specialist (NMS) [Name<sup>1</sup>]  
 [Address<sup>2</sup>]  
 [Address<sup>2</sup>]

### RE: Acknowledging Receipt of Nutrient Balance Sheets

Dear Broker or NMS Name

This letter acknowledges receipt of the following Nutrient Balance Sheets (NBS) that were received at the [Name<sup>3</sup>] County Conservation District on [Date<sup>4</sup>]. The referenced NBS will be retained on record in the conservation district file for the appropriate exporter or importer noted below.

Importer Name	Importer Address	County, State	Manure Type	Crop Group

Exporter (or Broker) Name	Exporter (or Broker) Address	County, State	Manure Type

If you have any comments or questions, please feel free to contact me at [Phone<sup>5</sup>]

Sincerely,

[Staff Person<sup>6</sup>]  
 [Title<sup>6</sup>]

cc: File  
 Broker, if they did not write NBS

<sup>1</sup>- Certified Broker or NMS who wrote and submitted the NBS

<sup>2</sup>- Address of Broker or NMS who wrote and submitted the NBS

<sup>3</sup>- Name of the conservation district that received the NBS

<sup>4</sup>- Date NBS were received at the conservation district

<sup>5</sup>- Phone number of conservation district person who received and filed the NBS

<sup>6</sup>- Name and title of person who received and filed the nutrient balance sheets



**LETTER TRANSFERRING AN APPROVED NUTRIENT MANAGEMENT PLAN**

Date

[Name<sup>1</sup>] County Conservation District

Address

Address

**RE: Transfer of Approved Nutrient Management Plan**

Dear District Chairman,

I am writing to inform you that as the operator of the animal operation located at [address<sup>3</sup>] and having an approved Nutrient Management Plan (NMP) on file there at the [Name<sup>1</sup>] County Conservation District under the name of [Name<sup>2</sup>] that the operation will be sold / transferred to [name<sup>4</sup>] effective on or about [date<sup>7</sup>]. Mr. / Mrs. / Ms.' [Name<sup>4</sup>] [address<sup>5</sup>] and [phone number<sup>6</sup>] are as follows:

---

**Choose appropriate Scenario A no significant changes or Scenario B significant changes.**  
**Scenario A**

In accordance with § 83.373 Plan Transfers (a) An approved nutrient management plan may be transferred to a subsequent owner or operator of an agricultural operation by notification of the transfer to the Commission or delegated conservation district, unless the transfer results in operational changes requiring a plan amendment under § 83.371(relating to the plan amendments).

On or about [Date<sup>7</sup>] I will be transferring my [category<sup>8</sup>] current NMP, approved [date<sup>9</sup>] for crop years 20XX to 20XX to [name<sup>4</sup>].

Sincerely,

[Signature<sup>2</sup>]: \_\_\_\_\_ Date: \_\_\_\_\_

[Name<sup>2</sup>] (typed or clearly printed): \_\_\_\_\_

Title of signatory: \_\_\_\_\_

I [Name<sup>4</sup>] have agreed to follow the transferred NMP as approved per § 83.373 Plan Transfers (a). Before the expiration of the last planned crop year in the transferred plan, I will contact a certified nutrient management plan writer to perform the required triennial review. The new plan will need to be in place on or before October 1, [20XX<sup>11</sup>] for the operation to remain in

compliance with Act-38 regulations. The NMP will need to be submitted to [Name<sup>1</sup>] County Conservation District or the Commission on or before April 1, [20XX<sup>11</sup>].

Sincerely,

[Signature<sup>4</sup>]: \_\_\_\_\_ Date: \_\_\_\_\_

[Name<sup>4</sup>] (typed or clearly printed): \_\_\_\_\_

### **Scenario B**

In accordance with **§ 83.373 Plan Transfers (b)** If the transfer of the approved plan results in operational changes requiring a plan amendment under § 83.371, the plan amendment shall be submitted for approval of the Commission or a delegated conservation district along with, or before the notification required under subsection (a).

I [Name<sup>4</sup>] plan to make significant changes to the NMP requiring a plan amendment under §83.373 (b). I understand that an amended NMP needs to be in place before significant changes are made to the operation. I anticipate the amended plan will be submitted to the [Name<sup>1</sup>] CD on or about [Date<sup>10</sup>] meeting the requirements of § 83.371 Plan Transfers (a).

Sincerely,

[Signature<sup>4</sup>] \_\_\_\_\_ Date: \_\_\_\_\_

[Name<sup>4</sup>] (typed or clearly printed) \_\_\_\_\_

Pc: File

DEP if CAFO

**Name<sup>1</sup>** = County Conservation District name, written out first time than abbreviated thereafter

**Name<sup>2</sup>** = Current operator's name

**Address<sup>3</sup>** = Current operator's address

**Name<sup>4</sup>** = New operator's name

**Address<sup>5</sup>** = New operator's address

**Phone<sup>6</sup>** = New operator's phone number

**Date<sup>7</sup>** = Date operational control to be transferred

**Category<sup>8</sup>** = Type of operation: Concentrated Animal Operation (CAO) or Concentrated Animal Feeding Operation (CAFO) or Volunteer Animal Operation (VAO)

**Date<sup>9</sup>** = Date plan was last board approved

**Date<sup>10</sup>** = Date of plan submission to the conservation district / Commission

**20XX<sup>11</sup>** = Date of new crop year, October 1, 20XX

## Plan Transfer Acknowledgement Letter for CAOs

Date \_\_\_\_\_

Operator Name

Farm Name (*if used in NMP*)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, *[Operator's Name]*

The **[Name<sup>1</sup>]** County Conservation District (\_\_CCD, or District **[Name<sup>1</sup>]**) received the proposed Nutrient Management Plan (NMP) Transfer request on **[Date<sup>2</sup>]** for your animal operation located at **[Address<sup>3</sup>]**. Based upon our review, the plan transfer met the requirements of Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations, and therefore **was acknowledged by the [Name<sup>1</sup>] Board of Directors at their [Date<sup>4</sup>] meeting.** Your transferred NMP will expire on **[Date<sup>5</sup>]**, which is the end of the last crop year for which it was developed.

**To remain in compliance with** Act 38 (Pa's Nutrient Management Act) you must implement the plan, maintain plan implementation records, and update or amend your plan according to the program timeframes. The limited liability provisions of the Act are afforded only to those operators that are implementing their approved plan according to schedule and maintaining the required records.

### Nutrient Management Act Obligations:

Your legal obligations relating to your approved Nutrient Management Plan are as follows:

- 1) Fully implement and follow all provisions of your approved Nutrient Management Plan.  
Operate and maintain all existing BMPs on your operation in order to protect water quality. Apply manure and other nutrient sources in accordance with the specific applications rates, timing and methods described in your approved NMP. If you wish to deviate from the provisions approved in your plan, you must contact your certified planner and our office prior to the action.
- 2) With the assistance of a Pennsylvania Certified Nutrient Management Specialist you must:
  - a. Amend your plan whenever there is a significant change in the management of nutrients on the farm. Those significant changes that would require a plan amendment are any of the following:
    - i. A net increase in Animal Equivalent Units per acre (AEUs / ac) by more than 10% (either by increasing animal numbers, loss of acres, or a combination of the two);
    - ii. A change in crop management that results in a reduction of greater than 20% in nitrogen necessary for realistic expected crop yields, or the amount the crop will utilize within one crop year;
    - iii. A change in excess manure utilization arrangements as described in the approved plan;

1. No amendment is required to address the loss of an importer if the loss does not impair the operator's ability to properly manage the manure generated on the operation.
  2. No amendment is required to address the addition of a new importer if the operator submits the nutrient balance sheet and signed agreement required by this subchapter to the delegated conservation district overseeing the exporting farm, prior to transport. The district shall verify the adequacy of the documentation, update the plan file with the new documentation and require formal approval of the new importer through a plan amendment when the plan is subject to the triennial review under § 83.362(c) (relating to plan implementation).
  - iv. If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with the requirements of this subchapter, and adequate justification has not been given in writing for the inconsistency;
  - v. If a BMP different than that called for in the approved plan is proposed to address a manure management or stormwater management concern;
  - vi. If, after the first 3 years of implementing the plan, actual yields are less than 80% of the expected crop yields used in the development of the plan.
  - vii. If alternative organic nutrient sources will replace or augment nutrient sources described in the plan.
  - viii. If additional lands are brought into the operation through purchase, lease or renting.
  - ix. If there is a change in the manure management system that is expected to result in a different nutrient content that requires a change in manure application rates under § 83.293 (relating to determination of nutrient application rates).
  - x. If a change in manure application is necessary based on the reevaluation of potential phosphorus loss as part of the triennial review under § 83.362(c) (relating to plan implementation).
  - b. Update your plan to address operational or computational (minor) changes other than those described above (a, i-x). Examples of minor changes would be changing crops in a field different from those listed in your current plan, or adding new importers to your plan.
  - c. Both three-year, and yearly plan submissions (either Amendments or Updates) must be submitted to the [Name<sup>1</sup>] prior to the beginning of the next crop year (October 1<sup>ST</sup>) of the upcoming crop year for which they are planned.
- 3) Maintain accurate records (as outlined in the "Nutrient Management Plan Agreement & Responsibilities" page of your approved plan) including:
- a. Land application of fertilizer, manure and other nutrients on your operation,
    - i. Including the location and number of acres of application, date of application, and rate of application for each field or crop group
  - b. Crop yields representing all fields on the operation,
  - c. Soil tests every three years representing all fields on the operation,
  - d. Annual manure analysis reports,
  - e. Manure production records,

- f. The number of animals on pasture (if any) as well as number of days on pasture and hours per day, *[List needs to the specific to the NMP operation. Delete items that do not pertain to the operation]*

You do not need to submit these records to the Commission or **[Name<sup>1</sup>]**, but they must be retained on the operation and be available upon request by the Commission or Conservation District. Several sample record keeping forms have been included with this mailing. You do not need to use these sample forms, but you are required to keep the records listed above. The included forms are provided to help you keep those required records.

- 4) Maintain accurate manure export records of manure being exported off of your operation. **Manure Export Sheets** must be completed every time manure is exported from your site. A copy of a blank Manure Export Sheet is included in this mailing. A completed Manure Export Sheet representing each manure export event, kept on file at your operation (with a copy provided to the importer), satisfies your continual record keeping requirements for exported manure. The Manure Export Summary sheet is an optional form that you may find useful when manure is frequently exported to the same importer within the same crop year. *[Delete this paragraph for farms not exporting manure.]*
- 5) Provide Exported Manure Information Packet. During the initial implementation of your plan, when transferring manure to a given importer for the first time, you will need to provide a copy of the **Exported Manure Information Packet** to the importer. This export packet (enclosed) includes a copy of:
  - a. Exported Manure Information Packet Guidance Sheet.
  - b. Nutrient Management Planning: An Overview (Penn State Agronomy Facts 60).
  - c. Manure Management for Environmental Protection.
  - d. Land Application of Manure – A supplement to the Manure Management Manual Plan Guidance.
  - e. Manure Export Sheet.
  - f. Manure Transfer Summary Sheets.
  - g. Manure Field Stacking Requirements Fact Sheet.

You only need to provide this information packet to each importer once through the life of your operation. If you need additional Manure Export Packets, please contact **[Name<sup>1</sup>]**. *[Delete this paragraph for farms not exporting manure, or for those farms exporting for reasons other than for Ag land application.]*

- 6) Implement or install all proposed Best Management Practices (BMPs) listed in your approved Nutrient Management Plan in accordance with their implementation date listed in the plan. The BMPs, and their proposed implementation dates (as listed on page #\_\_\_\_\_ of your plan) are:
  - a. **BMP name, location, and implementation timeframe** **[BMP<sup>6</sup>]**;
  - b. *[repeat for each BMP]...*

Prior to building any BMP, you will need to obtain a design for the practice. The practice design will need to conform to the standards in the Pennsylvania Technical Guide. For Nutrient Management Plans that include liquid or semi-solid manure storages, the design for the storage must be developed by a Professional Engineer licensed to work in Pennsylvania. **At least two weeks prior to beginning construction on the new manure storage, you will need to have your engineer submit to our office, written verification indicating that the storage has been designed according to the appropriate standards and that it is in conformance with the setback requirements.** Also at that time, the engineer will need to submit a copy the quality assurance plan outlining when, and by whom, the construction job will be inspected for conformance with the design standards. *[Manure storage language is only needed for plans proposing to install a new manure storage structure]*

If you need any assistance with the installation of these proposed BMPs, please feel free to call our office and we will attempt to help you with these practices. If you will not be implementing the practices (as originally proposed above) you are required to inform your nutrient management planner so your plan can be revised to reflect this change.

*[Delete this entire item 4 if there are no new BMPs proposed in the approved plan.]*

7) Participate in Annual Status Reviews. Nutrient management program staff from the Commission, or [Name<sup>1</sup>], are obligated to inspect your farm at least annually to assess plan implementation and record keeping. This is completed through **annual Status Reviews.** *[For CAFOs, Add the following:* The Department of Environmental Protection may also be involved with inspections of your operation (either jointly or separately) in an effort to ensure that the Concentrated Animal Feeding Operations (CAFO) permit requirements are being applied properly to your operation.] Staff will call ahead to try to accommodate your schedule. Please call [Name<sup>1</sup>] if you have any questions relating to the implementation of your plan.

8) Perform Triennial Reviews - At least triennially, your plan, records, and status of your operation's compliance will need to be reviewed by a certified NM specialist to determine whether a plan amendment is required. A reevaluation of your Phosphorus Index will be part of this **triennial review.** You will need to have a triennial review completed on your plan at least by [Date<sup>7</sup>]. *Please note that that the triennial review must be completed early enough so that the NMP can be amended, submitted, reviewed and approved prior to the expiration of your newly approved NMP on September 30 [Select appropriate year] and subsequent start of the crop year on October 1<sup>st</sup>*

In conclusion, you are legally obligated to follow all provisions of your approved nutrient management plan. You cannot deviate from the practices outlined in this plan without formally revising this approved nutrient management plan through a Pennsylvania Certified Nutrient Management Specialist and the [Name<sup>1</sup>] County Conservation District. If you have any questions about this letter or your requirements under the nutrient management program, please feel free to call me [Name<sup>8</sup>] at (\_\_\_\_) \_\_\_\_-\_\_\_\_. I will be glad to provide any additional assistance.

Sincerely,  
John Doe [Name<sup>8</sup>]  
[Name<sup>1</sup>]

Title

Enclosures:

Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan  
Michael Aucoin, SCC (if author is provisionally certified)  
DEP if Operation is a CAFO

*Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))*

*Date<sup>2</sup> = Date plan transfer request was received by the CD*

*Address<sup>3</sup> = Site address (minus the state and zip code)*

*Date<sup>4</sup> = Date your BOD acknowledged the plan transfer*

*Date<sup>5</sup> = Date plan will expire (most likely September 30 of the last crop year planned)*

*BMP<sup>6</sup> = list BMP name, location, and implementation timeframe as they appear in the plan*

*Date<sup>7</sup> = This date will either be the same as Date<sup>5</sup> (for 3-year plans) or within 3 years of plan approval (for 1-year plans)*

*Name<sup>8</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.*

*\*Make sure to include enclosures*



## Plan Transfer Acknowledgement Letter for Volunteers

Date \_\_\_\_\_

Operator Name

Farm Name (*if used in NMP*)

Operator address

Operator address

Dear Mr. / Mrs. / Ms. \_\_\_\_\_, *[Operator's Name]*

The **[Name<sup>1</sup>]** County Conservation District (\_\_\_ CCD, or District **[Name<sup>1</sup>]**) received the proposed Nutrient Management Plan (NMP) Transfer request on **[Date<sup>2</sup>]** for your animal operation located at **[Address<sup>3</sup>]**. Based upon our review, the plan submission in its final form met the requirements of Pennsylvania's Nutrient Management Act (Act 38 of 2005) regulations, and therefore **was acknowledged by the [Name<sup>1</sup>] Board of Directors at their [Date<sup>4</sup>] meeting.** Your transferred NMP will expire on **[Date<sup>5</sup>]**, which is the end of the last crop year for which it was developed.

**To maintain your volunteer status** under the Act 38 as a Volunteer Animal Operation (VAO), you must implement the plan, keep plan implementation records, and update or amend your plan according to program timeframes. The limited liability provisions of the Act are afforded only to those operators that are implementing their approved plan according to schedule, and maintaining the required records.

### **Nutrient Management Act Obligations:**

The following is a list of program obligations required to maintain volunteer status under Pennsylvania's Nutrient Management Act (Act 38) Program:

- 1) **Fully implement and follow all provisions of your approved Nutrient Management Plan.**  
Operate and maintain all existing BMPs on your operation in order to protect water quality. Apply manure and other nutrient sources in accordance with the specific applications rates, timing and methods described in your approved NMP. If you wish to deviate from the provisions approved in your plan, you must contact you certified planner and our office prior to the action.
- 2) With the assistance of a Pennsylvania Certified Nutrient Management Specialist you must:
  - a. **Amend your plan** whenever there is a significant change in the management of nutrients on the farm. Those significant changes that would require a plan amendment are any of the following:
    - i. A net increase in Animal Equivalent Units per acre (AEUs / ac) by more than 10% (either by increasing animal numbers, loss of acres, or a combination of the two);
    - ii. A change in crop management that results in a reduction of greater than 20% in nitrogen necessary for realistic expected crop yields, or the amount the crop will utilize within one crop year;
    - iii. A change in excess manure utilization arrangements as described in the approved plan;



1. No amendment is required to address the loss of an importer if the loss does not impair the operator's ability to properly manage the manure generated on the operation.
2. No amendment is required to address the addition of a new importer if the operator submits the nutrient balance sheet and signed agreement required by this subchapter to the delegated conservation district overseeing the exporting farm, prior to transport. The district shall verify the adequacy of the documentation update the plan file with the new documentation and require formal approval of the new importer through a plan amendment when the plan is subject to the triennial review under § 83.362(c) (relating to plan implementation).
- iv. If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with the requirements of this subchapter, and adequate justification has not been given in writing for the inconsistency;
- v. If a BMP different than that called for in the approved plan, is proposed to address a manure management or stormwater management concern;
- vi. If, after the first 3 years of implementing the plan, actual yields are less than 80% of the expected crop yields used in the development of the plan.
- vii. If alternative organic nutrient sources will replace or augment nutrient sources described in the plan.
- viii. If additional lands are brought into the operation through purchase, lease or renting.
- ix. If there is a change in the manure management system that is expected to result in a different nutrient content that requires a change in manure application rates under § 83.293 (relating to determination of nutrient application rates).
- x. If a change in manure application is necessary based on the reevaluation of potential phosphorus loss as part of the triennial review under § 83.362(c) (relating to plan implementation).
- b. Update your plan to address operational or computational (minor) changes other than those described above (a, i-x). Examples of minor changes would be changing crops in a field different from those listed in your current plan, or adding new importers to your plan.
- c. Both three-year, and annual plan submissions (either Amendments or Updates) must be submitted to the [Name<sup>1</sup>] prior to the beginning of the next crop year (October 1<sup>ST</sup>) of the upcoming crop year for which they are planned.
- 3) Maintain accurate records (as outlined in the "Nutrient Management Plan Agreement & Responsibilities" page of your approved plan) including:
  - a. Land application of fertilizer, manure and other nutrients on your operation,
    - i. Including the location and number of acres of application, date of application, and rate of application for each field or crop group
  - b. Crop yields representing all fields on the operation,
  - c. Soil tests every three years representing all fields on the operation,
  - d. Annual manure analysis reports,
  - e. Manure production records,

- f. The number of animals on pasture (if any) as well as number of days on pasture and hours per day, *[List needs to the specific to the NMP operation. Delete items that do not pertain to the operation]*

You do not need to submit these records to the Commission or *[Name<sup>1</sup>]*, but they must be retained on the operation and be available upon request by the Commission or Conservation District. Several sample record keeping forms have been included with this mailing. You do not need to use these sample forms, but you are required to keep the records listed above. The included forms are provided to help you keep those required records.

- 4) Implement or install all proposed Best Management Practices (BMPs) listed in your approved Nutrient Management Plan in accordance with their implementation date listed in the plan. The BMPs, and their proposed implementation dates (as listed on page #\_\_\_\_\_ of your plan) are:
- BMP name, location, and implementation timeframe [BMP<sup>6</sup>];***
  - [repeat for each BMP]...***

Prior to building any BMP, you will need to obtain a design for the practice. The practice design will need to conform to the standards in the Pennsylvania Technical Guide. For Nutrient Management Plans that include liquid or semi-solid manure storages, the design for the storage must be developed by a Professional Engineer licensed to work in Pennsylvania. **At least two weeks prior to beginning construction on the new manure storage, you will need to have your engineer submit to our office, written verification indicating that the storage has been designed according to the appropriate standards and that it is in conformance with the setback requirements.** Also at that time, the engineer will need to submit a copy the quality assurance plan outlining when, and by whom, the construction job will be inspected for conformance with the design standards. *[Manure storage language is only needed for plans proposing to install a new manure storage structure]*

If you need any assistance with the installation of these proposed BMPs, please feel free to call our office and we will attempt to help you with these practices. If you will not be implementing the practices (as originally proposed above) you are required to inform your nutrient management planner so your plan can be revised to reflect this change.

***[Delete this entire item 4 if there are no new BMPs proposed in the approved plan.]***

- 5) Maintain accurate manure export records of manure being exported off of your operation. **Manure Export Sheets** must be completed every time manure is exported from your site. A copy of a blank Manure Export Sheet is included in this mailing. A completed Manure Export Sheet representing each manure export event, kept on file at your operation (with a copy provided to the importer), satisfies your continual record keeping requirements for exported manure. The Manure Export Summary sheet is an optional form that you may find useful when manure is frequently exported to the same importer within the same crop year.
- 6) Provide Exported Manure Information Packet. During the initial implementation of your plan, when transferring manure to a given importer for the first time, you will need to provide a copy

of the **Exported Manure Information Packet** to the importer. This export packet (enclosed) includes a copy of:

- a. A blank *Manure Export Sheet*;
- b. A copy of PA Department of Environmental Protection's "*Land Application of Manure: Manure Management Plan Guidance*" (a supplement to DEP's Manure Management Manual);
- c. A copy of Penn State factsheet "*Agronomy Facts 60-Nutrient Management Planning: An Overview*".

You only need to provide this information packet to each importer once through the life of your operation. If you need additional Manure Export Packets, please contact [Name<sup>1</sup>]. *[Delete this paragraph for farms not exporting manure, or for those farms exporting for reasons other than for Ag land application.]*

7) Participate in onsite Status Reviews. Nutrient management program staff from the Commission, or [Name<sup>1</sup>], are obligated to inspect your VAO farm at least every three years to assess plan implementation and record keeping. This is completed through onsite **Status Reviews**. Staff will call ahead to try to accommodate your schedule. Please call [Name<sup>1</sup>] if you have any questions relating to the implementation of your plan.

8) Perform Triennial Reviews - At least triennially, your plan, records, and status of your operation's compliance will need to be reviewed by a certified NM specialist to determine whether a plan amendment is required. A reevaluation of your Phosphorus Index will be part of this **triennial review**. You will need to have a triennial review completed on your plan at least by [Date<sup>7</sup>].

In conclusion, in order for you to maintain your volunteer status under Act 38, and the limited liability protection afforded to you by the Act, you must follow all the provisions (including record keeping) of your approved Act 38 NMP.

**Thank you for your participation in Pennsylvania's Nutrient Management Act program.**

Your participation in this program also satisfies your Pennsylvania manure management planning obligations under Chapter 91 of PA's Clean Streams Law. If you have any questions, please feel free to call me at \_\_\_\_ - \_\_\_\_\_ [phone number].

Sincerely,

John Doe [Name<sup>8</sup>]  
[Name<sup>1</sup>]  
Title

Enclosures:

Sample record keeping forms  
Exported Manure Information Packet

cc: Author of plan Transfer Request (NMP writer that asked for the transfer)  
\_\_\_\_\_DEP if Operation is a CAFO

Name<sup>1</sup> = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date<sup>2</sup> = Date plan transfer request was received by the CD

Address<sup>3</sup> = Site address (minus the state and zip code)

Date<sup>4</sup> = Date your BOD acknowledged the plan transfer

Date<sup>5</sup> = Date plan will expire (most likely September 30 of the last crop year planned)

BMP<sup>6</sup> = list BMP name, location, and implementation timeframe as they appear in the plan

Date<sup>7</sup> = This date will either be the same as Date<sup>5</sup> (for 3-year plans) or within 3 years of plan approval (for 1-year plans)

Name<sup>8</sup> = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

\*Make sure to include enclosures

**COMMONWEALTH OF PENNSYLVANIA  
NUTRIENT MANAGEMENT PROGRAM**

**PLAN REVIEW TIMEFRAME EXTENSION REQUEST**

As noted in the regulations, an action on Act 38 NMPs needs to occur within the first 90-day review timeframe. The regulations do allow for an additional 90 days' review. However, only Conservation Districts or the Commission (not planners) can roll a plan review over into a second 90-day review timeframe.

If NMPs are not in approvable form in the first 90-day review time frame, the Conservation Districts are to contact their SCC regional coordinator for consultation on extending the plan review timeline from the first 90 days to the second 90 days. (See NM/MM Administrative Manual Chapter 3)

When requests for review extensions are sent to the SCC Regional Coordinator, the following information shall be provided:

1. Name of NMP: \_\_\_\_\_
2. Plan Writers Name: \_\_\_\_\_
3. Crop Year(s): \_\_\_\_\_
4. Date NMP was initially received at the CD for review: \_\_\_\_\_
5. Date administrative completeness review was completed on NMP: \_\_\_\_\_
6. Date formal admin review letter was sent to operator/plan writer: \_\_\_\_\_
7. If a CAFO, date NMP appeared in the PA Bulletin: \_\_\_\_\_
8. If a CAFO, date that the 30-day PA Bulletin Notice expires: \_\_\_\_\_
9. Date technical review was performed: \_\_\_\_\_
10. Date the on-site farm visit was performed: \_\_\_\_\_
11. Date(s) comments/deficiencies were sent to operator / plan writer: \_\_\_\_\_
12. Date of plan writer's most recent revisions were received at CD:  
\_\_\_\_\_
13. Date of the last board meeting prior to the end of the first 90-day review time frame:  
\_\_\_\_\_

14. Last day CD can accept revisions to the submitted NMP prior to board meeting (that meets the first 90-day time frame): \_\_\_\_\_

15. Dates of future board meetings after the first 90-day time frame has expired:  
\_\_\_\_\_

16. Any issues or items encountered during the review that CD feels delayed the review process:  
\_\_\_\_\_  
\_\_\_\_\_

17. Other items which CD has encountered with the review of the submitted NMP that have caused the delay:  
\_\_\_\_\_  
\_\_\_\_\_

18. Any other additional information CD staff wishes to supply concerning the request to extend the review time period, such as – lack of quorum of CD board members, employee turnover, cancelations of board meetings. Lack of response from the plan writer or operator, etc...:  
\_\_\_\_\_  
\_\_\_\_\_

19. Length of extension requested: \_\_\_\_\_

20. Anticipated board meeting date when action will take place on NMP: \_\_\_\_\_

**Person Requesting Extension:** \_\_\_\_\_

**County:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

FOR OFFICIAL USE ONLY

Plan Review Time Extension: \_\_\_\_\_ APPROVED \_\_\_\_\_ DISAPPROVED

Length of time NMP was under review: \_\_\_\_\_

Number of days extended past original 90 days: \_\_\_\_\_

Proposed meeting date for NM plan approval: \_\_\_\_\_

180-day NMP approval deadline: \_\_\_\_\_

SCC Regional Coordinators signature: \_\_\_\_\_ DATE: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

**NMP Update Report to District Board**

DATE: \_\_\_\_\_

TO: \_\_\_\_\_ County CD Board of Directors (list county name)

FROM: (NM Technician Name)

Re: Plan Update for \_\_\_\_\_ [NMP Name] NMP

I have completed my review of the [NMP Name] Nutrient Management Plan (NMP) Update which was submitted by \_\_\_\_\_ [Planner Name] of [Planner Company] on \_\_\_\_\_ [Date<sup>1</sup>]. This update is for the NMP that includes crop years 20\_\_ through 20\_\_. OR This update is an annual submission for crop year 20\_\_. [select]

The original NMP for \_\_\_\_\_ [NMP Name], an existing (or proposed) [select] \_\_\_\_\_ [animal type] operation located in \_\_\_\_\_ Township, was approved on \_\_\_\_\_ [Date<sup>2</sup>]. The operation is home to \_\_\_\_\_ [animal species and numbers]. This operation has \_\_\_\_\_ acres suitable for manure application. This operation, having an animal density of \_\_\_\_\_ AEUs/acre is defined as a \_\_\_\_\_ (Volunteer or Concentrated Animal Operation) [select] under the PA Nutrient Management Act. The operation (is or is not) [select] considered a CAFO by the Department of Environmental Protection.

This NMP update is categorized as a (Choose an item<sup>3</sup>). After my review, I deemed the update to be technically complete and have notified the plan writer and operator that the update has been accepted.

No board action is required for NMP updates.

Date<sup>1</sup> – Date plan update was submitted to CD office

Date<sup>2</sup> – Date original NMP was approved

Choose an item<sup>3</sup> – Simple Update, Triennial Review Update, or Yearly Plan Submission Update

## NMP Update Report to (COUNTY) County CD Board of Directors

Technician:

Date Range:

NMP Name	Municipality	Plan Update Submission Date	Original NMP Approval Date	Planner <sup>1</sup>	Species <sup>2</sup>	AEUs	Regulated Operation Type <sup>3</sup>	Date Plan Acknowledgement Letter Sent	Reason for Update



# Chapter 7

## RECORD OF CHANGES