

CAFO Compliance Success Story: Hudson Valley Foie Gras

by *Jacqueline Lendrum*

A federal court ruling in 1994 involving Southview Farms, a case originating in Western New York, signaled a major change in the regulation of wastewater from large livestock facilities known as concentrated animal feeding operations (CAFOs). Previously, farms had been largely exempt from environmental regulations with the New York State Department of Environmental Conservation (NYSDEC) taking action against only the largest, gross water quality violations. Now, the tides were turning from a largely responsive program to a preventative one. Following the first CAFO general permit issuance in 1999, the CAFO operators were required to obtain and comply with state wastewater discharge permits. Today, more than 10 years later, the general permit covers 150 large and 425 medium CAFOs.

Key among the permit's many requirements is the development, implementation and maintenance of a current Comprehensive Nutrient Management Plan (CNMP), written by a New York State certified planner and conforming to the technical standards established by the federal Natural Resources Conservation Service (NRCS). These standards mitigate pollution sources on the farm through implementation of farm-specific best management practices (BMPs). CAFO implementation involves the coordinated efforts of the farmer, a certified planner and a professional engineer licensed to practice in New York State. When a farm is missing part of this implementation team or if part of the team works without communicating with other members – non-compliance often results.

Over the life of the CAFO program, compliance and enforcement activities have increased as farms become better aware of regulatory requirements and deadlines. Compliance and enforcement activities include farm inspections, complaint investigations, issuance of Notices of Violation (NOV) and Orders on Consent for regulatory violations.

Type of Large CAFO Farms	No. in NYS
Veal Calves.....	1
Turkeys.....	1
Swine.....	6
Other Cattle.....	1
Dairy Cattle.....	108
Dairy Heifers.....	14
Horses.....	5
Ducks.....	1
Chickens.....	1
Total:	148

Large CAFOs in New York State are predominantly dairies or dairy heifer operations. Poultry CAFOs represent only nine percent of the regulated large facilities. (Source: 2008 CAFO Annual Compliance Report)

When enforcement action is initiated against a CAFO farm, the goal is to correct the violations, return the farm to compliance, and to implement solutions that will help maintain future compliance.

Case Study: Large Duck Farm

Hudson Valley Foie Gras (HVFG) is a permitted large CAFO farm raising ducks in New York State's Hudson Valley region. The farm has been covered under the CAFO general permit since November 2000. On October 24, 2006, a compliance inspection took place at HVFG to determine if the farm was in compliance with the requirements of their CAFO permit. The NYSDEC staff found that a waste storage structure had been constructed without a properly certified engineered design. The CAFO general permit requires that permitted facilities meet NRCS Conservation Practice Standard NY312, which requires that waste storage structures have properly certified engineered designs. The farm invested significant funds on a waste



In New York State most CAFOs are dairy farms. On dairies, liquid manure is land applied in accordance with facilities' Comprehensive Nutrient Management Plan, using manure tankers such as the ones pictured here.

Photo courtesy of NYSDEC-Region 7

treatment system to collect, treat, store and land apply the nutrients produced at the farm.

The farm involved a professional engineer in some aspects of the waste treatment system design, but had not met the CAFO permit technical requirements of the NRCS Conservation Practice Standards. In addition, during the review of the CNMP, NYSDEC staff discovered that the plan did not accurately reflect the current status of the facility. These failures to comply with the CAFO general permit constituted violations of the New York State Environmental Conservation Law (ECL) and, as a first step toward compliance, an enforcement action was initiated.

On December 19, 2006, a compliance conference was held to discuss the alleged violations against the facility and to determine what penalties and actions would be required to resolve the violations. The farmer came to this meeting ready to fight. In his mind, he had spent a large amount of money trying to “do right” by the environment and he didn’t understand why NYSDEC was picking on him. However, the farm clearly had not met the requirements of the CAFO general permit and ECL. Too often farms think that CAFO compliance is achieved by spending a certain amount of money. That isn’t necessarily the case – design and implementation need to be done correctly, followed by practices to properly operate and maintain the systems for years of service. By bringing together the proper team to the compliance conference – farmer, planner and engineer – NYSDEC was able to communicate the technical requirements and options for BMP implementation for the farm.



Photo courtesy of NYSDEC

The manure treatment and storage at the Hudson Valley Foie Gras farm includes a complex system of environmental protection devices. Here is a fully-lined waste storage lagoon for process wastewaters generated at the farm.

Enforcement Action

Executed on February 14, 2007, a Notice of Violation and Order on Consent was issued to the farm. The farm was assessed a civil penalty of \$50,000 – \$30,000 paid with the remaining \$20,000 suspended pending compliance with the Order on Consent including meeting all applicable implementation deadlines. The facility also funded an Environmental Benefit Project (EBP) which required the farm to purchase a hydroseeder. The equipment was used to limit sediment loadings from ditches along waterways for the Sullivan County Soil and Water Conservation District (SCSWCD). The purchase was valued at approximately \$36,000.

The Order on Consent also required the facility to submit a completely updated CNMP. NYSDEC staff conducted an extensive technical review of the CNMP and required revisions by the certified planner and engineer to ensure full adherence to the NRCS Conservation Practice standards. The NYSDEC’s efforts to review and approve the CNMP for HVFG go above and beyond the normal technical evaluation necessary for CAFO facilities due to the unique nature of the waste treatment system. The complexity of interactions of the facilities’ engineer and planner with the NYSDEC necessitated this in-depth review. Once agreement was reached on the content of the CNMP (September 8, 2008) and the site-specific BMPs needed for this facility, the farm was able to complete final implementation projects and begin the revised operational and maintenance procedures. Ultimately, the effort was well spent, as the farm was on track with a plan to achieve full compliance with the CAFO permit.

Achieving Compliance

On April 3, 2009, NYSDEC staff conducted a site visit to assess the performance, operation and maintenance of the waste treatment system. The wastewater treatment strips were found to be functioning as intended. The NYSDEC verified that the previous violations in the Order had all been addressed and the enforcement action resolved.

On June 30, 2009, a comprehensive CAFO inspection was performed at HVFG to determine facility compliance with ECL and the CAFO permit. The farm was directed to add operational and maintenance recordkeeping systems and make some amendments to its CNMP. The facility was given an overall satisfactory rating at this inspection.

It took two-and-a-half years and much effort by the farmer, planner, engineer and NYSDEC staff – but, in the end, the farm has achieved compliance with the ECL and CAFO permit. The farmer is, reportedly, pleased with the enhancements the CAFO program has made to his farm operations and business. This type of success makes the work and effort NYSDEC staff put into the CAFO program a truly satisfying professional experience.

CAFO Engineers Needed

The CAFO permit requires the development of a CNMP by a certified planner that identifies what practices need to be implemented in accordance with NRCS Conservation Practice standards which, in many cases, require design and implementation under the oversight of a professional engineer. Costly implementation mistakes can be avoided by recognizing the need for a coordinated effort among qualified individuals. Currently, the NYSDEC is working with NRCS and the New York State Department of Agriculture and Markets to provide New York State’s professional engineers with information about CAFO technical requirements and to encourage more professional engineers to get involved in the field of CAFO engineering. There is much work yet to be done and New York State needs qualified individuals to achieve it.

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