

Frequently Asked Questions
About Permit Requirements of the
SPDES ECL Permit (GP-0-09-001) for
Concentrated Animal Feeding Operations

Version 1.0 – May 20, 2010

CAFO PERMIT

1: I am reading Part 3.D.e re 20% expansion clause. It says the CNMP needs to be updated at least 15 days before a major change, and it says that an annual NMP or CNMP certification must be sent to DEC, but it does not link the two- I believe your intent was to have the CNMP cert or Annual NMP submitted 15 days before the change, correct?

A: Correct.

2: If I discharge or propose to discharge do I need CWA permit coverage?

A: Yes. Discharge or propose to discharge means any release of manure or process wastewater, including releases from feed storage areas into the surface waters of New York State. Agricultural stormwater discharges as defined herein are exempt and do not classify a facility as discharging or proposing to discharge.

3: What setback is required from wells?

A: As per the NRCS Nutrient Management Standard (NRCS-NY590), CAFOs must respect a 100 foot setback from wellheads, springs or sinkholes unless specific evidence shows it can be done without contamination. These wells must be noted in the CNMP.

4: On page 12 the permit says, “including, (1) vegetated treatment areas, (2) permanent waste transfer structures, etc.” does this mean “including only” or “included but not limited to”?

A: Including only.

5: Can one permittee have both an ECL permit and a 360 permit at the same time?

A: Yes. For example, if a CAFO facility is accepting and storing nonrecognizable food processing waste with manure in a waste storage structure for a total annual volume of 40% or greater in the structure then the facility must have both a CAFO permit and a 360 permit.

6: If a farm imports whey or other recognizable food wastes for livestock feed, do Part 360 regulations apply?

A: No, the Part 360 regulations do not apply.

- 7: Does the addition of whely require a revision or update to the CNMP and is new sampling of the waste stream required?**
A: Yes.
- 8: Who will inspect/enforce farms under the CWA permit?**
A: The CWA permit will continue to be enforced (including inspections) by both NYS DEC and USEPA.
- 9: How does the ECL permit comply with the EPA CWA requirements?**
A: The EPA CWA rules apply to CAFOs that “discharge or propose to discharge”, the ECL permit does not apply to farms that discharge or propose to discharge. If a farm discharges or proposes to discharge it must obtain or maintain CWA permit coverage.
- 10: Can DEC require a farm to get a CWA permit?**
A: Yes.
- 11: Is a large CAFO currently under a consent order eligible for the ECL permit?**
A: Maybe. It depends on the circumstances of the particular situation. Please confer with your regional DEC office.
- 12: How much time does an existing, unpermitted Medium CAFO have to complete non-structural practices?**
A: Under the ECL permit, an existing, unpermitted Medium CAFO has until March 31, 2010 to complete all non-structural practices, including PE evaluation of undesignated waste storage structures.
- 13: If a CAFO is granted ECL coverage, does the farm need to terminate their CWA permit?**
A: No, coverage under the CWA permit will automatically be terminated by the Department. The Department will provide written acknowledgment of the receipt of the NOI and authorization under the ECL permit.

NRCS STANDARDS

- 14: What NRCS standards are currently required by the new ECL permit? What if an NRCS standard changes between July 1, 2009 and June 30, 2014?**
A: The ECL permit requires compliance with the NRCS standards in place on July 1, 2009. If an NRCS standard changes between July 1, 2009 and June 30, 2014 a facility may *choose* to upgrade or implement a new practice to meet this new standard but this is not *required* for compliance with the ECL permit. However, it is likely that the next permit will incorporate this new, updated standard.

VEGETATED TREATMENT AREAS / SILAGE LEACHATE

15: We have in hand the NRCS-NY 635 Vegetated Treatment Area (VTA) standard dated April, 2009. Will this be the VTA "standard of record" for this permit?

A: Yes.

16: I understand that the VTA not being part of the production area is significant. Where does the VTA actually start?

A: The VTA starts at the high flow distribution line. For example, a high flow distribution trench at the top of the VTA.

17: The design work to date for the installation of a new treatment system / expansion of our existing system as part of our bunk silo expansion project has proceeded with the assumption that the high/low flow separation devices presently used in the existing silos can continue to be used for that purpose (as per the evaluation procedure) and the appropriate outflow from these units piped to the expanded VTA, as well as the high/low flow structure for the expanded storage area, would come under i (referring to permit pages 12-13). Would this be the proper interpretation?

A: The existing low flow collection system qualifies as an expanded BMP and needs to meet the NRCS 634 standard for waste transfer structures if it is indeed being expanded to accommodate the additional flows from the bunk expansion. If it is not being expanded, then you are correct, it needs to be evaluated as per Part III.A.d.iii *if it was not previously designed* by a PE or qualified NRCS employee with proper job approval authority to meet the NRCS standard in place at the time of installation. So, just to restate, if you are not expanding the low flow separator and it was already built by a PE or qualified NRCS employee to meet the NRCS standard then you don't have to do anything with the low flow collection system unless, of course, it isn't working as per the judgment of your Certified Planner.

18: Part III, A. d.: "When updating existing BMPs, the CNMP must prescribe a management system to provide equivalent protection of the environment during construction and transition periods." (pg. 12) Does our Certified Planner and/or PE have the authority to determine that the BMPs in place are providing adequate treatment for CAFO wastes during construction?

A: Yes, unless you are exceeding the land disturbance requirements for the Construction Stormwater Permit as per Appendix B of the CAFO ECL Permit. If you are concerned that you will exceed the thresholds you must contact the DEC Regional office prior to beginning construction.

19: If it were possible to keep the present "functionally equivalent" system intact during the construction phase, would that suffice?

A: Yes, if it is working as per the determination of the Certified Planner.

20: How can you be in full compliance with the permit and therefore eligible for the permit while a new VTA is being given time to establish.

A: Part III.C.b. states, "*All practices necessary for full compliance with this General Permit must be fully operational prior to permit coverage. All necessary updates shall be done in accordance with Part III.A. of this General Permit.*"

Part III.C.b. purposefully assures large CAFOs that they can maintain coverage during a transition or evaluation period by specifically referencing Part III.A. where the timeframes and outline for BMP implementation (new, expanded, existing) are stated.

So, in the case of your new VTA, you must make sure that during the establishment period you have directed the high flows away from the new VTA so that it has time to establish. Some options might be an adjacent corn field or other cropland as per the language of Part VI.E.c. (page 23)

"Leachate collection and control facilities must be implemented, operated and maintained in accordance with all applicable NRCS standards to prevent overflow or discharge of the concentrated, low-flow leachate products."

21: I am reading Part III.A.d.iii (page 12-13) – does this mean that all VTAs need P.E. evaluation even if they were just installed and working fine?

A: It depends. The VTA standard (NRCS 635) recently changed significantly (April, 2009) and, among other changes, includes a soil testing requirement. If the installed VTA was built in accordance with the April 2009 NRCS 635 VTA standard and the farm has as-built documentation from a P.E. or qualified NRCS employee then they do not need a P.E. evaluation. If not, then it must be evaluated by a P.E. Similarly, if a VTA that is designed and documented to the April 2009 VTA standard as described above is improperly functioning, then it must be evaluated by the planner and may require P.E. evaluation depending on what the problem is suspected to be.

22: I am reading Part III.A.d.iii (13) – it says that VTAs and waste transfer structures need P.E. evaluation but then says other existing BMPs that are improperly functioning can be evaluated by a P.E. or a planner?

A: Correct. Improperly functioning BMPs can initially be evaluated by a planner and then may need a P.E. depending on what the BMP is and what isn't working.

23: For an “undesigned” high flow silage leachate treatment system, i.e. cropfields, what is needed in the CNMP for the planner to justify that “high-flow leachate treatment is unnecessary”?

A: It depends on the site-specific characteristics of the situation. Some minimum requirements would include low flow collection or justification that low flow collection is unnecessary and consideration of the following criteria from the NRCS-NY 635 VTA Standard: distance and slope to nearest water of the state,

soil phosphorus tests for the cropland receiving the high flow, crop rotations, soil type(s) and hydrologic class (A, B, C or D), Nitrate Leaching Index, depth to groundwater and bedrock based on soil survey and field observation, etc. Essentially, we are looking for justification that installation of an NRCS compliant VTA adds no additional protection for water quality.

24: Does an “undesigned” high flow silage leachate treatment system need a level-lip spreader to evenly distribute flows?

A: It may in some instances. A level-lip spreader or another type of distribution device may be needed to avoid concentrated flows through the crop field as per the judgment of a Certified Planner.

25: Does a P.E. need to evaluate an undesigned filter area?

A: The term “filter area” can mean many different things. If you mean it to be a buffer strip to protect a watercourse on the edge of a cropland, then a P.E. does not have to evaluate that type of filter area. If meaning a Waste Water Treatment Strip or what is now known as a VTA used to treat process wastewater from production areas, then the existing, undesigned filter area would need to be evaluated by a P.E. An undesigned wastewater treatment strip or VTA is one that was *installed* without a design in accordance with a previous NRCS standard. If a certified planner had determined that no filter area, wastewater treatment strip, VTA, etc. was necessary because such a practice would not provide further treatment than the existing condition, then no “filter area” has been installed and no PE evaluation is required.

26: If I build a new low flow silage leachate collection tank with a roof over it do I need to have a P.E. design?

A: Yes. All new structures must meet the NRCS standards in place on 7/1/09. The new, covered low flow collection tank would be designed according to NRCS engineering standards, such as: the Manure Transfer Standard (NRCS-NY 634) or the Waste Storage Facility Standard (NRCS-NY 313).

27: If a planner deems high flow silage leachate treatment unnecessary as per page 23, then is the flow to the adjacent cropland consider an overflow? Is it a permit violation?

A: A permit compliant high flow silage leachate plan is not a violation of the permit and not a reportable overflow.

28: If a medium CAFO can't install a VTA before 3/31/10 to mitigate a discharge to waters of the State, what are their options?

A: Any facility that discharges to waters of the State must have a CWA permit. This facility must either maintain or obtain coverage under the CAFO CWA permit. While working to install the VTA, the facility could become eligible for the ECL permit if the Certified Planner and owner/operator could address the discharge with a practice that can be immediately implemented to provide adequate protection of the environment until such time as the structural

practice is implemented. For example, safely diverting flows to be filtered through crop fields, collecting and land-applying wastewaters to cropland according to their CNMP, etc.

PERMIT ELIGIBILITY / COVERAGE

29: Is an existing medium CAFO eligible for the ECL permit if it has an improperly functioning BMP?

A: Yes, unless the improperly functioning BMP is causing the CAFO to discharge or propose to discharge or if a non-structural BMP has already been identified in the CNMP to address the problem that has not yet been implemented.

30: If a farm expands to over 200 cows after July 1, 2009, what does the farm need to do and how long does it have to comply with ECL permit requirements?

A: The expanded Medium CAFO (AFO to Medium CAFO) would:

- (1) Submit a Notice of Intent to DEC at least 15 days prior to expansion above the medium threshold;
- (2) Fully implement all required non-structural practices within 6 months of submitting the Notice of Intent including submittal of a CNMP Certification;
- (3) Fully implement all remaining practices by March 31, 2012, unless an extension is requested before that date and granted for the medium CAFO. Extensions may allow until June 20, 2014 for full implementation by the medium CAFO.

31: If an AFO becomes a medium CAFO after 3/31/12 but isn't fully implemented, would they be eligible for an extension request? If so, how would they proceed with the NOI, CNMP Certification and extension request?

A: The expanded Medium CAFO (AFO to Medium CAFO) would:

- (1) Submit a Notice of Intent and extension request to DEC at least 15 days prior to expansion above the medium threshold;
- (2) Fully implement all required non-structural practices within 6 months of submitting the Notice of Intent including submittal of a CNMP Certification;
- (3) Fully implement all remaining practices by June 30, 2014.

Also, the facility may face additional requirements as set forth in a renewal CAFO permit.

32: What schedule does an AFO need to follow that becomes a medium CAFO in March of 2014 (or some date near the end of the permit)?

A: The expanded Medium CAFO (AFO to Medium CAFO) would:

- (1) Submit a Notice of Intent and extension request to DEC at least 15 days prior to expansion above the medium threshold;

- (2) Fully implement all required non-structural practices within 6 months of submitting the Notice of Intent including submittal of a CNMP Certification;
- (3) Fully implement all remaining practices by June 30, 2014.

Also, the facility may face additional requirements as set forth in a renewal CAFO permit.

33: A CAFO purchases a non-adjoining heifer facility (<300 heifers) with its own landbase and manages the heifer facility and landbase separately from the CAFO. If the heifer farm exports silage to the CAFO, would the heifer farm need to be covered by the CAFOs permit?

A: The permit states, the CNMP shall address, “areas under the control of the CAFO operation where fermented forages are stored and exported to the CAFO for feed shall be addressed in the CNMP. Areas where crops are produced and exported to the CAFO for feed, bedding or other purposes that are not also used for manure, litter or process wastewater applications by the facility need not be included in the CNMP.” Therefore, in this situation if the heifer facility is the location of the bunk silo then it must be included in the CNMP; if the feed export is directly from the field and no manure from the main farm applied on these fields, then it does not need to be included in the CNMP.

34: A medium CAFO purchases a non-adjoining farm and uses its landbase for manure applications and crop production for the CAFO and has included the landbase in its CNMP. The non-adjoining farmstead is leased by another party and used to milk less than 200 cows, independent of the CAFO. The CAFO sells them feed and uses their manure, all of which is covered in the CAFOs’ CNMP. Does the non-adjoining farmstead need to be included in the CAFOs’ permit?

A: Yes. This may make the facility a large CAFO depending on total animal numbers.

35: Can a farm send DEC a forward-dated Notice of Intent (ex: 1/1/11)?

A: No.

36: What permit is needed for a racetrack that has no landbase, properly exports all manure and discharges all of its manure/process wastewater to a publicly owned wastewater treatment system?

A: In accordance with Part I.C. of the general permit, facilities that discharge all of their process wastewater to a treatment system that discharges in accordance with a SPDES permit are excluded from coverage under the CAFO general permit.

MANURE STORAGE AND TRANSFER

37: Do gravity systems need to be certified by an engineer?

A: Permanent manure transfer systems must be evaluated by an engineer by 3/31/11, unless the existing manure transfer system has been designed and as-built documented by a P.E. or qualified NRCS employee.

38: Do large CAFO farms need manure transfer evaluations or other practice evaluations in order to be eligible for the ECL permit?

A: Manure transfer evaluations must be complete by 3/31/11. Similarly, evaluations of existing VTAs and improperly functioning BMPs must be complete by 3/31/11. Certifications of existing waste storage structures was required under GP-04-02, must have been identified in the facilities' CNMP and therefore must be complete for an existing facility to be considered eligible for the ECL permit.

39: Will an older manure storage that was evaluated and certified by a PE under GP-04-02 need to be evaluated by the PE again under the ECL permit?

A: No, unless the situation has changed in some manner or the structural integrity of the system compromised in some way, ex: erosion of the berm, failure to follow the O & M plan for the structure, new well data indicating contamination, etc.

40: Does a manure storage with as-built documentation from a PE before 1994 need to be evaluated by a PE? If it has soil suitability tests, does it need to be evaluated by a PE?

A: A manure storage with as-built documentation that includes soil suitability tests does not need to be evaluated by a PE unless the situation has changed in some manner or the structural integrity of the system compromised in some way, ex: erosion of the berm, failure to follow the O & M plan for the structure, new well data indicating contamination, etc.

41: Is the depth marker requirement a graded marker for the entire depth of the storage or a maximum fill marker?

A: A maximum fill marker.

42: Are anaerobic digesters considered manure storages or manure transfers?

A: Anaerobic digesters are manure storages.

43: Is an existing compost or separated solid storage facility covered by a roof considered a storage that needs evaluation by a P.E. for ECL permit eligibility?

A: No, because these facilities are covered by a roof, they are considered "underbarn" and are therefore exempt from P.E. evaluation.

44: Under the ECL permit, if building a new barn, what portions of the facility are required to follow NRCS standards and have a P.E. design and as-built documentation?

A: Manure handling and storage should be done in accordance with all applicable NRCS standards in place on 7/1/09.

45: Do Slurreystore manure storage structures need to be evaluated by a PE?

A: Yes, if there is no documentation from a PE or qualified NRCS employee certifying that design and installation of the concrete pad and the structure itself. Further, if the structure has not had any required regular maintenance to its cathodic protection system, it will also need to be evaluated by a PE or qualified NRCS employee.

MANURE APPLICATOR TRAINING

46: Are participants in the manure applicator trainings the only people allowed to apply manure?

A: No. However, anyone applying manure on a large CAFO farm must do so under the direct supervision of someone who has attended the manure applicator training. A minimum of two (2) individuals from each permitted large CAFO facility must attend a NYSDEC-endorsed manure applicator training within the permit term.

MORTALITIES

47: Can I use spoiled silage as the base for my mortality compost pile?

A: Composting operations are most likely to be successful when a dry, bulky, absorbent organic material is used as the base. However, if you are using spoiled silage for the base you have to manage the leachate that the spoiled silage will produce according to the NRCS Animal Mortality Facility Standard (NRCS-NY 316) and associated standards under the direction of a Professional Engineer licensed to practice in NYS. This can be done by placing the mortality compost pile on a pad and treating the leachate through a VTA, or by grading the pad to allow leachate to flow to a storage.

48: Can I use silage refusals as the base for my mortality compost pile?

A: Yes. Refusals are coarser, have some absorptive capacity and produce minimal leachate; therefore they may be used as a base for the mortality compost pile. However, if the mortality compost pile produces leachate, the leachate must be managed in accordance with NRCS 316. Chopped cornstalks may also be used but the same requirements apply.

49: Can I use spoiled silage or refusals for the top of my mortality compost pile?

A: Yes. However, if the mortality compost pile produces leachate, the leachate must be managed in accordance with NRCS 316 and associated standards.

PASTURES

50: If a CAFO regulated farm pastures heifers and the pasture has a stream flowing through it and the pasture is well vegetated, do those animals need to be fenced out of the stream?

A: The CAFO permit only requires fencing of animals out of waterways in confinement areas like barnyards. Therefore, if it truly is a pasture (i.e. grass under the animals feet), then no fencing is required to keep the animals out of the stream. However, it is a good practice to fence and protect streams and to provide an alternative water supply or limited access for animals.

51: What's required if a pasture has an abuse area devoid of vegetation that's in contact with a stream?

A: This area is considered a barnyard (heavy use area) and the animals must be fenced out of the stream and all runoff must be addressed with an appropriate collection / treatment system according to NRCS standards. Alternatively, you may implement better management of the pasture so that vegetation is restored and maintained throughout the year. Fencing the stream to limit access solely to watering points and/or crossing points in the newly managed pasture may be necessary per the judgment of your Certified Planner. Another alternative would be to permanently remove animals from this area.

52: What if an abuse area in a pasture, such as around a feeding cart, is limited in size and buffered from watercourses?

A: The Certified Planner may determine and document that additional NRCS practices would not provide further protection to the watercourse and recommend management and further monitoring of the situation.

53: Do farms that exceed the CAFO animal number, but keep all animals on pasture (meaning animals aren't confined for more than 45 days in a non-vegetated area), need to obtain an ECL permit?

A: The requirements for pasture operations have not changed with the issuance of the ECL permit. However, it is very difficult in the climate of the northeast to truly pasture animals in vegetated areas for the winter.

SETBACKS

54: Please explain the setback regulations surrounding concentrated flows in fields.

A: As described in the responsiveness summary, the AEM Certified planner must make field-specific judgments with respect to concentrated flows in fields. Some additional measures may apply to a particular circumstance to reduce risk of contamination of receiving waters.

55: Does the 15 foot setback with 24 hour incorporation alternative require that the entire field be incorporated or, at a minimum, the zone between 15 and 100 feet?

A: At a minimum, the manure must be incorporated in the zone between 15 and 100 feet. Based on risk, the Certified Planner may use field-specific judgment to recommend incorporation for the entire field or some portion beyond the minimum 15 feet. Whole field incorporation may provide enhanced environmental protection. NRCS-NY590 must be applied to the entire field to control erosion, manage nutrients, etc.

56: The ECL permit places limits on building in the 100-year floodplain. What map coverages should be used to determine the 100-year floodplain?

A: FEMA provides 100-year floodplain maps in both hardcopy and GIS forms. Some counties in NYS have complete, more up-to-date “DFIRM” GIS maps, while other counties have older “Q3” GIS maps. Some counties are currently only available as hardcopy maps or electronic images of hardcopy maps. See the FEMA website for access to the GIS and hardcopy maps (<http://msc.fema.gov>). Finally, the 100-year floodplain maps may be found in various county offices, such as county planning departments. Individuals with questions should contact the DEC Division of Water Bureau of Flood Protection and Dam Safety (<http://www.dec.ny.gov/lands/311.html>)

OVERFLOWS

57: A barn has a push off area to load manure into a spreader. It is a concrete “box” that the skid steer can fit into with 2 foot walls on three sides to buck the manure up against to load into the spreader. If whoever is cleaning the barn does a sloppy job and manure goes over the concrete wall and falls next to the spreader is this an overflow? The manure would be cleaned up and not allowed to build-up because the spreader couldn’t be filled if it were. If this is considered an “overflow” does it need to be reported?

A: The permit does not allow for a “little bit” of spilled manure to be discharged to waters of the State or overflowed from the production area. The reasonable solution is to instruct the farm to regularly clean this up or to use better housekeeping if they are not already doing that. An “overflow” is defined as manure or process wastewater leaving the productions area. In this case it seems that the manure would only leave the production area (i.e. farmstead) during a storm event so, again, the only answer is to clean it up. If it is not cleaned up and it does leave the production area then it is an overflow and must be reported in the Annual Compliance Report.

58: If a farm applies a manure rate that is greater than that in their CNMP to save manure from surpassing the freeboard mark on their storage, is the farm out of compliance? If so, how would it need to be reported to DEC?

A: Yes, the farm is out of compliance. The overapplication should be reported in the Annual Compliance Report. If the waste storage overtops then the

facility must report the non-compliance to DEC verbally within 24 hours and in writing within 5 days using the incident report form.

If, however, the farm revised the rates in consultation with their Certified Planner before applying the manure, then they are in compliance with the permit.

RECORDKEEPING

59: Given the technology constraints with recording rainfall during the winter, when does rainfall need to be recorded in the winter?

A: Weather conditions at the time of application, the day prior to and the day following application including actual precipitation and forecasted conditions must be recorded. All rain events in excess of 0.3 inch shall be measured, recorded and kept as part of the normal CNMP recordkeeping. If it rains in excess of 0.3 inches and the farm is applying manure, litter or process wastewater, the farm shall record the rain event even during the winter.

EXPORT

60: If the CAFO is composting manure on site and then it goes off the farm, is it considered to be the same thing as the 50 tons of manure removed or sold off site as far as keeping a record of the place it goes? Is compost the same as manure for the purpose of documenting the transfer of manure, litter and process wastewater greater than 50 tons?

A: Yes. The requirements for export and transfer of manure, litter and process wastewater are for the export of nutrients and composting does not substantially alter the nutrient content of the material. Also, remember that these requirements apply to the export of 50 tons of these materials to any one recipient.

ANNUAL REPORTING

61: Which annual report do we send in by March of each year?

A: The permit requires a CAFO to submit the Annual Report as per the requirements of the permit that the CAFO has coverage under on 12/31 of the previous year.

62: What is the starting period for the Annual Compliance Report?

A: The Annual Compliance Report must reflect the calendar year. It must be submitted by 3/31 of each year.

63: Has the Annual Compliance Report changed?

A: Yes. Please see the form for details.

ANNUAL NUTRIENT MANAGEMENT PLANS

64: What is the starting period for the Annual Nutrient Management plan?

- A: The Annual Nutrient Management plan must be submitted by 3/31 of each year. It may reflect the crop year (10/1 – 9/30) or the calendar year. This must be clearly indicated in the submittal.
- 65: Do Large CAFOs need to wait for DEC approval of Annual Nutrient Management plan submittals before implementing the Plan?**
A: No.
- 66: For the Annual NMP submittal do you need to send in field maps or can a narrative be used instead?**
A: Field Plan Narratives may supplement the field maps as deemed appropriate by the Certified Planner (e.g., acres, practices, etc.). These narratives must accurately describe the field acreage, individual field-specific management practices, concentrated flows, watercourses, field locations and field boundaries with field specific references such that a field may be easily located on a map.
- 67: Can a farmer apply less manure on a field than stated in their Annual NMP submittal without contacting their planner and reporting it in their Annual Compliance Report?**
A: Yes. However, if the change means increasing nutrient applications from other sources, the change must be done under the direction of a Certified Planner and, if a Large CAFO, noted in the Annual Compliance Report.
- 68: Can a farmer change rates by switching to another manure source without contacting their planner first?**
A: No, unless the change has been previously detailed in the CNMP for the facility.
- 69: Are large CAFOs required to resubmit field maps when reporting differences from the Annual NMP in the Annual Compliance Report?**
A: No.
- 70: Are large CAFOs required to submit new field and farmstead maps or narratives with each year's Annual NMP submittal?**
A: Yes. The workload associated with this can be substantially minimized with electronic submittals.
- 71: Is either the risk level (e.g. very high, high, medium, low) or the rating number for the P Index and N Leaching Index acceptable for the Annual NMP?**
A: Yes.
- 72: If a farmer wanted to state the maximum animal population allowable by the CNMP, would it be the number able to be housed at the CAFO or the number that can be supported by the landbase/nutrient management plan?**

A: The maximum allowable animal population is based on the waste management capabilities of the CAFO. This includes manure storage capacity, feed storage waste handling, mortality management, land application capabilities, etc.

73: Must materials like agricultural limestone and calcium sulfate be included in the Annual Nutrient Management Plan submittals and Annual Compliance reports?

A: No, to the extent that these materials do not affect the nitrogen and phosphorus balance for a field(s), they do not need to be included. You can, however, include them if that makes the submittal process easier based on your current planning system.

CONSTRUCTION STORMWATER

74: Does a farm need a stormwater permit if the overall scope of the project is > 5 acres but the actual components are each < 5 acres?

A: If the overall project is shown on a plan, it would fit the definition of a “larger common plan of development or sale” and, therefore, would need to obtain permit coverage. If components of the project are conceptual and not shown on a plan (or have not received other approvals, etc.), the project would not need coverage if the total disturbance for the portions of the project shown on the plan is less than 5 acres. A CNMP is not considered a common plan of development.

WATERS OF THE STATE

75: Are there map coverages that exactly match the Part 800 to 941 list?

A: The waters listed in 6 NYCRR Parts 800 to 941 are represented by hardcopy DEC maps. These are most closely represented in a scanned, geo-referenced digital map image of the hardcopy maps that is available in CD format from DEC by contacting the Division of Water at (518) 402-8111.

76: Is a vector coverage that exactly matches the 800 to 941 list available?

A: No. The available digital vector maps are approximate representations of this list of classified waters, wetlands, lakes, ponds, etc. so should be used with the realization that errors may exist.

77: What GIS coverage should I use to approximate what is found in 800-941?

A: The NYS Environmental Resource Mapper is an online mapping tool that approximates the locations of streams and lakes listed in 6 NYCRR Parts 800 to 941. The online mapping tool allows for map viewing, but not downloading. The same coverage is also available for download at:
www.nysgis.state.ny.us/gisdata/inventories/details.cfm?DSID=1118.

78. The manure and/or process wastewater setback requirements require setbacks from NYS Regulatory Freshwater Wetlands in addition to other resources such as the surface waters of the State. What is the best downloadable GIS map coverage for NYS Regulatory Freshwater Wetlands?

A. The Environmental Resource Mapper also provides an online approximation of NYS Regulatory Freshwater Wetland boundaries. That same coverage is also available for download on the following site (see the county coverages for “Freshwater Wetlands (DEC; NAD83)” at <http://cugir.mannlib.cornell.edu/datatheme.jsp?id=111>).

79: What should I do if the list (800 to 941) and/or the “Water Quality Classifications – NYS” GIS vector coverage and/or the “Freshwater Wetlands (DEC; NAD83)” GIS vector coverage indicate that a stream or water exists but groundtruthing demonstrates otherwise?

A: In this situation, a Certified Planner shall document the actual location of the surface water of the State relative to the water mapped on the “Water Quality Classifications – NYS” GIS vector map or the “Freshwater Wetlands (DEC; NAD83)”GIS vector map (or on a print-out from the NYS Environmental Resource Mapper if not using your own GIS). Any required setbacks shall also be documented on the map from the actual location of the surface water as observed in the field. This documentation must be included in the CNMP and may be required to be submitted to DEC at some future time.

80: What should I do if I find a continuously flowing surface water that is not on the list (800 to 941) and/or the “Water Quality Classifications – NYS” GIS vector coverage and/or the “Freshwater Wetlands (DEC; NAD83)” GIS vector coverage?

A: In this situation, a Certified Planner shall document the location of the continuously flowing surface water on the field map with the “Water Quality Classifications – NYS” GIS vector map and the “Freshwater Wetlands (DEC; NAD83)”GIS vector map layers present (or on a print-out from the NYS Environmental Resource Mapper if not using your own GIS). Any required setbacks shall also be documented on the map from the actual location of the surface water as observed in the field. This documentation must be included in the CNMP and may be required to be submitted to DEC at some future time. USGS Topographical map “Blue Line” streams are not always the same as Waters of NYS listed in Part 800-941.

For further mapping support in determining whether a watercourse is a surface water of the State (i.e., within 800-941 or continuously flowing), you may find the following maps to be helpful checks:

- The scanned, geo-referenced map image of the hardcopy 800-941 maps available on a CD from DEC;
- The hardcopy 800-941 map available from DEC;

- National Hydrography Dataset Plus (NHD Plus). This is a downloadable GIS data set, made available by USGS (www.horizon-systems.com/nhdplus/).
 - NHD Plus supplies medium resolution coverages (1:100,000) for streams and waterbodies, while the National Hydrography Dataset site serves both the medium as well as higher resolution (1:25,000) water coverages (<http://nhd.usgs.gov/data.html>).
- National Wetlands Inventory, produced by the US Fish and Wildlife Service (USFWS), includes many smaller wetlands. Downloadable data is available from USFWS (<http://www.fws.gov/Wetlands/Data/DataDownload.html>). This coverage does not replace field verification and is particularly weak in areas with coniferous cover. As with the coverage of NYS Regulatory Freshwater Wetlands, the boundaries in the coverage do not replace field verification. Hardcopies of NYS Regulatory Freshwater Wetland maps are available from DEC regional offices.
- Finally, orthoimagery is available at various resolutions from the NYS GIS Clearinghouse (<http://www.nysgis.state.ny.us/gateway/mg/>).