

Subpart D - CNMP Financial and Technical Assistance

405.30 Financial Assistance Programs

Once developed, the CNMP shall be signed by the producer before the installation of any waste storage/handling facilities and nutrient management activities identified in the CNMP are initiated.

405.31 State Conservationists' Discretion for Special Circumstances

A. There may be rare and specific cases where State Conservationists need to use discretion addressing the following circumstances. In these cases, the completed plan is not a CNMP, but is acceptable for technical and/or financial assistance; and the completed plan is not sufficient documentation for an NPDES permit. Special circumstances include:

B. Small animal operations.

At the discretion of the State Conservationist, an AFO may be eligible for technical and/or financial assistance without the development of a CNMP, if the AFO can document that sufficient preventive measures have been installed to prevent discharge, under wet conditions, of manure runoff from the production and land treatment areas. In lieu of a CNMP, a nutrient management plan for the application of manure and a job sheet would be provided to cover the O&M of the production area. Producers shall meet all of the following guidelines to be considered under this exception; and a nutrient management plan will address the application of manure to land treatment areas:

- (i) The AFO has less than 40 animal unit equivalents and adequate acreage to utilize the manure and wastewater generated, or imported, by the operation in accordance with Federal, State, Tribal, and local regulations.
- (ii) No livestock access to a stream or waters of the State, except for controlled access for watering or stream crossing by means of an adequately designed and constructed crossing.
- (iii) There is more than two times the amount of land/crop acres available to utilize the nitrogen, phosphorus, and potassium, based on the most restrictive nutrient, from the manure on a crop removal basis, and none of these fields have a phosphorus soil test in the high, very high, or excessive rating.
- (iv) The producer agrees to apply animal waste at agronomic rates in accordance with the State's Nutrient Management practice standard (code 590).

C. Quality Criteria for soil erosion.

- (1) At the discretion of the State Conservationist, an AFO may be granted an exception to the quality criteria for soil erosion (sheet, rill, wind, and irrigation induced) natural resource concerns if all of the following conditions are met:
 - (i) Acceptable conservation practices are planned, installed, and maintained to prevent the transport of manure and wastewater nutrients from production fields to adjacent waterways and/or water bodies, including field buffers. Installed practices must effectively prevent the degradation of water resources and meet Federal, State, Tribal, and local regulations.
 - (ii) For manure and processed wastewater application, a State-approved phosphorus risk assessment (P index, Phosphorus Threshold, or Soil Test Phosphorus) is used to determine the level of conservation needed to minimize the movement (surface or sub-surface) of phosphorus to adjacent waterways and/or water bodies. In all cases, the manure phosphorus application rates are based on Soil Test Phosphorus results. Guidance for developing these acceptable rates is found in the GM-190, Part 402, Nutrient Management, and the National Agronomy Manual, (to be developed).
 - (iii) There are no substantial increases in soil erosion from new cropland added to increase spreadable acreage available for manure/nutrient applications.
- (2) In these cases, the CNMP shall be based on local resource conditions, available conservation system technology, and the standards and guidelines contained in the local FOTG.
- (3) Documentation shall include a description of the system being applied, before and after soil loss calculations, including all factor values used to determine the soil loss; and the conservation practices necessary to meet the minimum system requirements of the FOTG.

405.32 Agency-Producer Interactions with Regard to CNMPs

A. Understanding working relations is very important to maintain the authorized role of NRCS when employees provide technical assistance to producers. As such, NRCS shall provide assistance to and work with producers. Producers interact directly with regulatory/permitting authorities. Producers decide and release farm-specific information to regulatory/permitting authorities.

B. NRCS employees shall not release farm-specific information to regulatory/permitting authorities. When the CNMP is used for regulatory/permitting purposes (NPDES permit), the producer is responsible for follow-up and O&M of the CNMP, including recordkeeping. NRCS employees or USDA agents will provide guidance to producers to ensure that the producer knows which records they need to keep and how to maintain those records. This will ensure that producers are aware of their responsibilities regarding follow-up for CNMPs.

C. Specific written permission from the landowner and decisionmaker shall be required before the NRCS releases farm-specific information to USDA agents or nonregulatory entities (TSPs).

D. When USDA conservation program funds are used (Environmental Quality Incentives Program) to develop the CNMP, follow-up for implementation and review of O&M is the responsibility of NRCS employees or USDA agents. O&M activities for CNMP conservation practices and recordkeeping are the responsibility of the producer.