

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

Act 38 and Chapter 91

**ADMINISTRATIVE
MANUAL**

Tom Wolf, Governor

**John Quigley, Secretary
Department of Environmental Protection**

**Russell Redding, Secretary
Department of Agriculture**

**Karl Brown, Executive Secretary
State Conservation Commission**

October 2015

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 agreements.

The intended use of this manual is to provide uniformity and consistency in the administration of the programs under the delegation agreements. 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) 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 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 2010, DEP updated the manure management manual land application supplement (MMM) under Chapter 91 as part of The Clean Stream Law.

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.

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 the 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 the 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 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 Level I, Level II, and Multi-County Delegation responsibilities. Level I delegation is primarily education and outreach while Level II is education, outreach, and action. Currently, all delegated conservation districts operate under Level II delegation either in the form of single county delegation agreements or multi-county delegations agreements (2 or more counties working together)

Act 38 / Chapter 91 Program Administrative Manual

<u>Table of Contents</u>	<u>Current Date</u>
Manual Cover Page	October 2015
Preface	March 2014
Introduction	March 2014
Table of Contents	October 2015
Chapter 1 – General Act 38 and Manure Management Manual Program Information	October 2015
Chapter 2 – Level 1 Duties (All Delegated Districts).....	October 2015
Chapter 3 – Level 2 Duties	October 2015
Chapter 4 – Act 38 Compliance Strategy and DEP County Conservation District Agricultural Compliant Response Policy..... ..	October 2015
Chapter 5 - Appendices.....	October 2015
Chapter 6 – Blank Forms / Sample Letters / Review Guidelines	October 2015
Chapter 7 – Record of Changes.....	March 2014

* The Current Date listed will match the footer date and indicates when the Chapter was updated.

CHAPTER 1

GENERAL ACT 38 AND MANURE MANAGEMENT MANUAL PROGRAM INFORMATION

CHAPTER 1 - GENERAL PROGRAM INFORMATION (Details)

I. Guidelines for Administering the Nutrient and Odor Management Act Technical and Administrative Program (Delegation Agreements).....	3
A. Background.....	3
B. Delegation agreements	3
C. Proposal form.....	4
D. Statement of Policy	5
E. Funding guidelines	5
F. Payment provisions.....	6
II. Plan Development Assistance and Financial Assistance.....	6
A. Financial assistance.....	6
B. Plan Development Incentives Program	6
III. Review of Plans Developed by Conservation Districts (CDs).....	6
A. Reciprocal agreement for CD review.....	7
B. State Conservation Commission (SCC) review	7
IV. Nutrient Management Specialist Certification Revocation.....	7
V. Evaluation of Conservation District (CD) Administration of Delegated Responsibilities.....	7
VI. Delegation Performance and Certification.....	8
VII. Biosecurity	9

I. Guidelines for Administering the (Act 38) Nutrient and Odor Management Act 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 (CDs or districts) of selected duties under the Nutrient Management Act (Act 38) 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 will provide financial assistance to the district for execution of the duties and responsibilities described herein, according to the guidelines for administering the Nutrient Management Act Technical and Administrative Programs.” This document together with the following are the guidelines for providing financial assistance to CDs:
 - a. The Nutrient Management Delegation Agreement Proposal Form (Chapter 5, Appendix III);
 - b. The Technical Assistance Funding Program Statement of Policy (Chapter 5, Appendix II); and
 - c. The current SCC Funding Guidelines.
3. In brief, the guidelines provide the following functions. Upon approval, the proposal form and associated budget become binding documents to provide funding. Before beginning activities for which claims will be made, each CD must agree to obtain an SCC/DEP approved proposal and budget, and enter into a delegation agreement with the SCC/DEP. The Statement of Policy provides the formal framework for the SCC/DEP to provide funding to CDs for technical and educational assistance. Districts may obtain funding through delegation or grant agreements. The SCC Funding Guidelines establish funding amounts and priorities. The SCC will annually allocate the available funding, including DEPs portion for Chapter 91 activities, according to its priorities, and the projected workload of each district. Payment for duties performed under a delegation agreement will be made according to the provisions of the agreement. The administrative manual provides needed details and links the 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 from the technical assistance program. 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 yearly.

C. 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 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 will be submitted yearly and may be revised for subsequent years of delegation. Included in the proposal form will be:

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

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.
 - i. The budget worksheet can only include budget line items for approved budget categories
 - ii. Administrative costs are capped at 25% of allocated amount.
 - 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. If written approval from the SCC/DEP is obtained prior to expenses being incurred, budget modifications to an

approved budget may be made between categories of up to 10 percent of the total annual budget amount.

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 districts. Associate districts may complete the "Associate Counties Memorandum of Agreement of Participation" (Chapter 5, Appendix III) which assigns the annual block grant money 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 and Funding Certification -- 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 through five, the district(s), the SCC and DEP will give approval to the proposal and budget. The Comptroller's Office will also provide funding certification for each year of the agreement, and the Secretary of the Office of Budget will certify funding for the first year. After approval of the delegation agreement and certification of funding, the district will be eligible for reimbursements and advance payments. The district will not be reimbursed for expenses unless the approvals and certification 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 Statement of Policy establishes the rules under which technical assistance funding is provided to districts. The policy includes the purpose of funding, general requirements, allocating 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. For priorities, the SCC/DEP can assign specific amounts of money according to the

level of delegation accepted by each district.

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 suspend payment processing 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 the Nutrient Management 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 block 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 block grant money authorized by the associate district(s).

II. Plan Development Assistance and Financial Assistance

A. Financial assistance

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

B. Plan Development Incentives Program

The Plan Development Incentives Program 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 CDs and other cooperating organizations.

III. Review of Plans Developed by Conservation Districts

Plans and plan updates and/or amendments developed by CD personnel will be reviewed and approved in one of two ways.

A. Reciprocal agreement for delegated conservation district review

Plans developed by CD 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 CD 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 multi-county 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 CD 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 CD Administration of Delegated Responsibilities

- A.** The SCC in conjunction with DEP, Bureau of Conservation and Restoration (BC&R) is assigned the responsibility of administering the Nutrient Management Program and Manure Management Program. The SCC coordinates the Act 38 activities while DEP BC&R coordinates the National Pollutant Discharge Elimination System (NPDES) Permit Program and Chapter 91 activities. DEP is responsible for developing and administering procedures for the delegation of portions of its program responsibilities to CDs.
- B.** Upon execution of a delegation agreement between SCC/DEP and a CD, SCC/DEP will exercise the overall program supervision through periodic 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 districts.
- C.** The evaluations provide a good opportunity for one-on-one training for CD 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 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. And, 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 CD staff can perform.
2. Training Activities – CD 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 CD staff that have experience and knowledge can perform
5. Noticing CAFO plans in the Pa Bulletin - All CD 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 CD 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 – CD 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 – CD staff that have the experience and knowledge can perform, SCC recommends certified NM staff.
12. Technical Assistance – CD staff that have the experience and knowledge can perform.
13. Financial Assistance – CD staff that have the experience and knowledge can perform.
14. Filing and retention of records - All CD staff that have experience and knowledge can perform
15. Quarterly reporting - All CD staff that have experience and knowledge can perform

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

VII. Bio-security

- A.** It is important for CD 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, CD 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. CDs are encouraged to have their own Board approved Bio-security 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 CD 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. CD 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 CDs 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 CD employees or interns who are not familiar with the CDs 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.
 4. Ensure you understand your CD's 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 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, 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, 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 CD's 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

- (a) 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. Hypochlorite (bleach) – minimum bleach solution of 10%

- ii. Chlorhexadine –common trade names Nolvasan, Virozan
- iii. Iodophors – common trade name Betadyne
- iv. Phenols – common trade names Lysol, Environ, One-Stroke
- v. Ammonium/Alcohol blends – common trade name Discide
- vi. Oxidative – Virkon
- (b) 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 CD staff have an emergency need to visit the animal operation during the outbreak. During these incidents, PDA will develop specific guidance for industry, CDs, and PDA employees

CHAPTER 2

LEVEL 1 DUTIES (ALL DELEGATED DISTRICTS)

CHAPTER 2 – LEVEL 1 DUTIES (ALL DELEGATED DISTRICTS) (Details)

I. Education Programs	4
A. General education program background.....	4
B. Coordination of effort.....	4
C. Local program delivery.....	5
D. Specific district responsibilities.....	5
E. Multi-district arrangements.....	6
II. Concentrated Animal Operation Determination	6
A. What operations are affected?.....	6
B. Operator responsibility.....	7
C. Conservation district (CD) responsibility.....	7
D. Information sources.....	8
E. Multi-district arrangements.....	8
III. Concentrated Animal Feeding Operations	8
A. Definition.....	8
B. DEP Responsibility.....	9
C. Conservation District (CD) Responsibility.....	9
D. Multi-district arrangements.....	9
IV. Filing and Retention of Records	10
A. Nutrient Management Plans (NMPs).....	10
B. Manure Management Plans and Chapter 91 related materials	10
C. Nutrient Balance Sheets (NBS).....	11
D. Other approvals.....	12
E. Quarantine cases.....	12
F. Delegation agreement termination.....	12
G. Tracking.....	12
H. Retention of Record.....	12
I. Filing organization.....	13
J. Right to Know Law.....	13
K. Denying access to files.....	14
I. Exception for matters in litigation	14
M. Multi-district arrangements.....	15
V. Reporting	15
A. All Delegated CDs.....	15
B. Multi-districts Arrangements.....	15
VI. Referral	15
A. Information for Nutrient Management Specialists and the public	16
B. Plan development.....	16
C. Plan review and action (Level 1).....	16
D. Plan implementation (Level 1).....	16

E. Technical assistance.....	16
F. Complaints and compliance.....	16
G. Multi-district arrangements.....	17

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. A specific effort 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, 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

1. The district will keep a record of the following required output measures as provided for in the program quarterly report form in Chapter 6, Supplement 4
 - a. 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 or educational 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, presentations to groups, television or radio programs or public announcements.
 - c. 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.
2. 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 of those operations that they identified as potential CAOs. The district will assist these operators, when requested, in determining their animal density status (see Chapter 2, section II below).
3. 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.

4. 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.
5. 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 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 suitable land 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 per calendar year. Suitable land for manure application can be owned or rented, but must be under the operators 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 for the production of 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 the 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 event that issues of concern arise.
 - 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 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 (NMTM). 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 -- or 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:

Note: Level 1 CDs will forward all planning documents to the SCC within 10 days.

The guidance below is for Level II CDs:

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 regional DEP office that an administratively complete CAFO NMP or NMP amendment has been submitted for review
 - b. The regional DEP 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.
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 from 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. The comment letter shall be sent by the CD reviewing staff or SCC.
4. 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 regional office for publication of this action in the Pa Bulletin.
5. If a planner withdraws a CAFO NMP prior to action by the CD Board or SCC (rescinds the submission), generally to address technical comments when the 90 day review clock is running out, the operator / planner has 30 days to resubmit that NMP in order to avoid having to re-advertise the resubmitted NMP in the Pa Bulletin.
 - a. If the operator/planner resubmits the CAFO NMP within 30 days, neither the CD, SCC, nor DEP need to re-advertise the resubmitted plan in the Pa Bulletin.
 - b. If the operator/planner does not resubmit the NMP within 30 days, the CD, SCC and DEP will need to re-advertise the NMP resubmission 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 Retention of Records

A. Nutrient Management Plans:

1. NMPs; Amendments; Yearly Plan Submissions, Plan Updates and correspondence (including public comments) associated with each operation, for the categories listed below, will remain on file at the CD office and will be accessible to staff of the SCC, PDA and DEP.
 - a. CAOs
 - b. CAFOs
 - c. VAOs
 - d. Compliance Plans

Level 1 CDs will forward all planning documents to the SCC within 10 days, as well as, maintain a local “conservation district file” The SCC will forward copies of its approval/disapproval letters as well as any other correspondence back to the Level 1 CD.

2. Retention of outdated NMPs:

- a. Each operator file maintained under Pennsylvania’s Nutrient Management Act program will include a copy of the most recently approved/disapproved version of the NMP addressing the operation (CAO, CAFO or volunteer).
- b. Previously approved or disapproved NMPs which have been superceded by more recently approved or disapproved 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 which was approved or disapproved. Once the three-year retention date is reached for these outdated plans, they may be purged from the file.
- c. Once a more recent version of an operator’s plan is approved by the district board, the district should indicate on the outdated plan’s cover sheet, that it is invalid. The district should also document the purge date on the cover sheet of the outdated version or disapproved version so that the district can easily know when the outdated or disapproved version can be discarded.

B. Manure Management Plans (MMPs) and Chapter 91 Related Materials

1. All record pertaining to Chapter 91 Outreach, Training, and Assistance are to be keep 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
 - i. Short description of each training effort
 - ii. Number of farmers attending
 - iii. Number of private sector planners/consultants attending
 - c. MMP Assistance
 - i. Short description of each on-farm assistance provided
 - ii. Number of on-farm planning assistance
 - iii. Number of on-farm technical assistance

- iv. Number of MMP voluntary verifications
 - v. Number of CD Developed MMPs
2. 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.

C. Nutrient Balance Sheets (NBS) from Manure Brokers:

1. Manure brokers in Pennsylvania continue to play an important role in helping Pennsylvania farmers properly distribute manure generated on their animal 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 of an Act 38 participating farm, 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 NMP and must be provided to the importing operation identified in the NMP where land application will occur. A certified Act 38 NMS is authorized to develop the NBSs, that are submitted as part of the exporting Act 38 NMP, 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 these NBSs are developed by the time that the manure is exported to the importing farm. This is a requirement under both Act 38 and Act 49. Brokers are authorized to write these NBSs if they have obtained Level 2 Broker certification under Act 49. However, a certified NMS cannot develop NBSs for a broker to meet these requirements and cannot be hired to develop the NBSs on behalf of a broker. That task can only be completed by a certified Act 49 Level 2 Broker.

3. Manure brokers should ensure that the NBSs are submitted to the importing operator and CD offices in both the county where the manure is exported from and to 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 would need to submit copies of the NBSs for the importing farm receiving the manure to both the Lancaster County and Schuylkill County CDs not later the time of transfer of manure, as well as, a copy of those NBSs to the importing operation that receives the manure.
4. CDs receiving these NBSs from brokers are to:
 - a. Send an Acknowledgment letter to the broker that they have received the NBS. See chapter 6 for a sample letter
 - b. File the submitted NBS.
 - i. If an Act 38 farm is exporting the manure, file the NBS in the Act 38 landowner file.
 - ii. If an Act 38 farm is importing the manure, file the NBSs in the Act 38 landowner file.

- iii. All other NBSs are to be filed by the importer name in a separate NBSs file (note: development of a county tracking system that cross references the importer and exporter is highly recommended).

D. Other approvals

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.
2. Level 1 CDs will forward all planning documents to the SCC within 10 days, as well as, maintain a local “conservation district file.” The SCC will forward copies of its approval/disapproval letters as well as any other correspondence back to the Level 1 CD.

E. 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.

F. Delegation agreement termination

In case of termination of a delegation agreement, all files will be turned over to the SCC within 10 days of termination of the delegation agreement.

G. Tracking

A tracking system will be implemented by the delegated CDs or multi-district arrangements. The Commission may provide a template for this tracking system or the delegated CD may develop their own that will, at a minimum, 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.

H. 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 of NM specialist, shall be maintained for each operators file.
 5. Copies of all setback waivers, implementation extensions, NMP transfers, etc., shall be maintained in each operators file.

I. 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.

J. Right-to-Know Law

1. As directed by the SCC and DEP, the CD will approve and implement appropriate written polices 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, confirm with the requesting party, that the request is being made informally and is not being made under the provisions of the Right-to-Know Law. Ask the requesting party to send written confirmation that the request is being made informally. Maintain a copy of the confirmation. 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 desired. The party may take notes or otherwise duplicate, by their own hands, any file materials. 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.

K. Denying access to files

1. Complainant - Do not release any information which may disclose the identity of an informant. All complainant files are considered privileged information and withheld to protect the identity of the informant.

L. 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.

M. 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.

V. 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. Conservation Districts are to report their Act 38 and Chapter 91 delegated duties on a quarterly basis.
3. Conservation District Nutrient Management Reimbursement Request and Quarterly Reports (see Chapter 6, Supplement 4) should be submitted to DEP, as provided on the header of the forms.
4. DEP will compile the quarterly report information and forward to the SCC yearly and upon request.
5. Quarterly reports are due as follows:
 - a. January 25th for Quarter October thru December
 - b. April 25th for Quarter January thru March
 - c. July 25th for Quarter April thru June
 - d. October 25th 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 forms and instructions for the reports 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 forms and instructions for the reports are in Chapter 6, Supplement 4.

VI. 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. Level 1 districts may elect to provide this information.
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. Plan review and action – Level 1 Conservation Districts

1. All plan review and action activities for operations in Level 1 districts will be referred within 10 working days of receipt to the SCC Regional Staff. SCC staff will coordinate review and approval activities through the SCC Board. SCC staff will provide the results of the review to the operator and the Level 1 district.
2. The district must maintain a file containing the NMP, NMP amendments and the associated correspondence and records relating to review and approval (see Chapter 1, Section 3).

D. Plan implementation – Level 1 Conservation Districts

Matters and information related to Nutrient Management Program implementation, such as manure storage setback waivers, plan transfer (to another owner/operator) and manure transfer will be referred within 10 working days to the SCC who will coordinate the review and action. The operator and district will work with the staff representing the SCC with the review efforts. Information relating to implementation received by the district must be duplicated with a copy maintained in the district file for the operation and the original sent to the SCC (see Chapter 2, Section IV).

E. 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.

F. 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.

G. 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

LEVEL 2 DUTIES

CHAPTER 3 - LEVEL 2 DUTIES (Details)

I.	Plan Review and Approval.....	5
A.	Administrative completeness review.....	5
B.	Technical review.....	6
C.	Plan approval.....	6
D.	Written responses to submission of plans.....	9
E.	Plan Transfers	10
F.	Plan reviews for certification.....	11
G.	Multi-district arrangements.....	11
II.	Implementation Records.....	12
A.	Conservation district implementation records.....	12
B.	Operator implementation records.....	13
C.	Informational requirements when exporting manure off of the operation	13
D.	Multi-District Arrangements.....	15
III.	Implementation Extensions.....	15
A.	Operations with voluntary plans.....	15
B.	Concentrated animal operations (CAOs) unable to implement the required BMPs as listed in their implementation schedule.....	16
C.	Implementation extensions for NMP holders due to unforeseen circumstances.....	16
D.	District duties.....	17
E.	Multi-district arrangements.....	17
IV.	Processing Requests for Manure Storage Setback Waivers for Perennial Stream, River, Spring, Private Well, Lake, Pond, or Reservoir	18
A.	Acknowledging receipt of proposed waivers.....	18
B.	Filing of proposed waivers.....	18
C.	Procedure for conducting on-site evaluations of waivers.....	18
D.	Assistance available from other agencies.....	19
E.	Criteria for considering waivers for approval.....	19
F.	Notifying landowners of approval/disapproval	20
G.	Multi-district arrangements.....	21
V.	Processing Requests for Manure Storage Setback Waivers for Neighbors	21
VI.	Guidelines for Providing Technical Assistance.....	22
A.	General guidelines.....	22
B.	Providing a list of private sector nutrient management planners to all farmers requesting assistance.....	23
C.	Act 38 Plan development for CAOs and CAFOs.....	23
D.	Act 38 Plan development for VAOs	24

E. Act 38 Plan development for farmers cited for violations under The Clean Streams Law.....	24
F. Manure Management Plan development for farmers not requiring or wishing to fall under Act 38	24
G. Informal, educational site visits for VAOs not receiving financial assistance under Act 38	25
H. Multi-District Arrangements.....	25
VII. Procedures for Conducting On-Site Status Reviews.....	25
A. Overview of on-site status reviews.....	25
B. Guidelines for the frequency and number of on-site status Reviews.....	26
C. Prioritization scheme.....	26
D. Information to be reviewed in the office or on-site.....	26
E. Procedural outline for on-site status reviews.....	27
F. Status Reviews on BOD members or other CD staff	27
G. Documenting findings.....	28
H. Follow-up for on-site status reviews.....	28
I. Identifying continuing violators to the Commission	29
J. Multi-district arrangements.....	29
VIII. Processing Complaints.....	29
A. Confidentiality.....	29
B. Authority.....	29
C. Complaint processing.....	30
D. Follow-up visit/review.....	31
E. Filing.....	31
F. Multi-district arrangements.....	31
IX. Emergency Procedures during PDA Quarantine Situations.....	32
A. Coordination with PA Department of Agriculture Quarantine Order.....	32
B. Amending plans in emergency situations.....	33
C. Multi-district arrangements.....	34
X. Appeals of District decisions on NMA Delegated Responsibilities...	35
A. General requirements.....	35
B. Multi-district arrangements.....	36
XI. Filing and Records Retention.....	36
A. Nutrient Management Plans.....	36
B. Plan Amendments and Yearly Plan Submissions.....	37
C. Quarantine cases.....	37
D. Tracking.....	37
E. Delegation agreement termination.....	37
F. Records retention.....	37
G. Filing organization.....	37
H. Access to files.....	38

I. Denying access to files.....	38
J. Multi-district arrangements.....	38
XII. Reporting.....	39
A. Education.....	39
B. Other District Activities.....	39
C. Multi-district arrangements.....	39
XIII. CAO, VAO Withdrawal from the Program	39
XIV. Chapter 91, Section 91.36 Delegated Duties.....	40
A. Overall Program development efforts.....	40
B. Outreach.....	40
C. Education.....	41
D. Training.....	41
E. Planning and Implementation Assistance.....	41
F. Compliant Response and Referral.....	42
G. Reporting.....	42

I. Plan Review and Approval

1. When a nutrient management plan (NMP) is submitted to the district, 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.
2. 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.
3. 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 of any missing or incomplete elements 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 on correspondence related to administrative completeness. If the plan is not administratively complete, this letter will apprise the operator and planner of the additional elements necessary to produce a complete plan submission. If the plan is administratively complete, the technical review process will begin. When the plan has been determined administratively complete it becomes 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 must 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.
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. See Chapter 3, Section VI, item F.
7. 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, some 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. 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, CAFO, and VAO operations must resubmit a revised plan within 90 days.
4. 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 is expected to roll the plan review over into the second 90-day timeframe. Districts do not have 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.
5. 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 17), 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.
 6. 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 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.

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 multiply 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. For PA Bulletin notification guidance for CAFO plans, refer to Chapter 5, Section V
8. 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, of the results of the plan review; namely plan approval or disapproval. 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 more quickly communicate directly 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. This letter that is sent to the plan writer and copied to the operator shall:
 - a. Describe the deficiencies of the plan;
 - b. Generally, advise the operator of the options available to address the deficiencies; and
 - c. List appropriate plan development deadlines contained in the regulations.
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 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 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. 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.
 - b. In this situation, where there is 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

F. 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.

G. 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. Reporting is described in Chapter 3, Section X of this manual.
 - i. Technical assistance provided -- number of operations.

- ii. Technical assistance forwarded to appropriate agencies -- number of operations.
- 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. Number of complaints, results of compliance efforts and referrals to the SCC for continuing violators of Act 38.
- v. Number and 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 NMSs; 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
 - 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 of 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 (a-c) 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)

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.

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 ten working 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. This letter may reference any remedial measures to be taken. In the case of CAFOs, consult with the appropriate DEP Regional Office.

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 10 working 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 (60 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);
 - 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 60 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.
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 6,000 gallons or less. In addition to the 6,000 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 60 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 65 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 (see Chapter 3, Section IX). A sample letter to satisfy this requirement has been developed and can be found in Chapter 6, Supplement 11 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 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 that it is properly executed (i.e. All blanks filled out and signatures notarized).

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

1. 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.

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.
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 noted on the appropriate quarterly report form(s) (Chapter 6, Supplement 4) 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. 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. 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 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. In the case of CAFOs, districts are encouraged to work within the inspection schedule and timeline of the DEP Regional Office to complete the status reviews.
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 will not perform all their yearly on-site status reviews, due to a variety of issues, must 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 bio-security.

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

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

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.

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. 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.
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 VI). 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 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. 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.

G. Documenting findings

1. Complete the status review checklist and provide a copy to the operator and place a copy in the official district file. 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. 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 to the SCC or its designee 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. 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.

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 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 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.

I. 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.

J. Multi-district arrangements

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

VIII. 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 (see Section XIV, F of this chapter). 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 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.
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. 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 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. The 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 regulated 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.

IX. 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.

X. 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. 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 plan amendments and any other action taken due to a contagious disease outbreak must be kept at the district office.

D. Tracking

A tracking system will be implemented by the delegated CD or multi-district arrangements. The Commission may provide a template for this tracking system or the delegated CD may develop their own that will, at a minimum, include the following information:"

1. Name and address of operation;
2. Date of plan submission;
3. Type of plan (CAO, VAO, CAFO or Compliance Plan);
4. Date and status of administrative completeness check (i.e. Complete or plan returned);
5. Date and description of all correspondence with plan writer and operator (phone calls, emails, letters, etc.);
6. Date of plan approval or disapproval;
7. NM Fund financial and/or cost-share assistance; and
8. Dates and results of on-site status reviews, compliance inspections and/or educational visits.

E. Delegation agreement termination

In the event of delegation agreement termination, all files will be turned over to SCC within 20 days of termination.

F. Records retention

Plans, yearly plan submissions, plan updates, and plan amendments shall be kept on file at the conservation district office for as long as the operation is viable. Specifically, a NMP, update, or amendment, along with official correspondence used to make a decision on the plan, update, or amendment, shall be retained for three (3) years following its expiration. In practice, each file will generally contain two (2) plans: the current plan and the plan it replaced. Every three (3) years the oldest plan may be purged from the file. Copies of on-site status reviews, compliance inspections and general operator correspondence should also be retained in the operator files for three (3) years.

G. Filing organization

All items placed in a file should be in the order of first received at the bottom, last received at the top. All maps, plans, drawings and photographs not secured by a

file fastener should be marked properly for identification and placed securely in a separate folder created for such materials. Files and information related to complaints should be kept in a separate folder, so that they can be removed when the file is viewed by the public.

H. Access to files

1. Other than complaint or enforcement files, which are discussed in Section I below, all files created or maintained by the district to meet the requirements of their program delegation agreement are open to inspection and review by the public. If a request for file information is received, the district shall comply in the following manner.
 - a. Advise requesting parties that files are open to public by appointment for inspection and review at the district office during normal working hours (state what standard work hours are). No files or portions of files may be removed from the district office by the requesting party. Explain any costs which may be charged for copying documents and/or charges for personnel costs.
 - b. Schedule appointments on a date and time convenient to your schedule. Provide an area where the files may be reviewed without unusual disturbance.
 - c. Have requesting parties list all documents and other file items that are requested. The party may take notes or otherwise duplicate, by their own hands, any file materials. The district may charge fees for materials copied or mailed according to an approved fee schedule.
 - d. Remove all file materials from the examination area before making any requested copies.
 - e. If the number of requested copies is extensive, inform the requesting party that the materials can be picked up or mailed at a future date and time.
 - f. Do not release any materials until any required payment is made in full. When payment is made, provide a written receipt.

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 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. Multi-district arrangements

1. Host district duties:
 - a. Maintain the official district file for operations in both the host and associate district(s). 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 district duties:
- a. Forward the results of associate district decisions and the associated written materials (e.g., plan approvals, plan amendments, setback waiver request actions, enforcement referrals) to the host district; and
 - b. Maintain a file for the operations with all materials forwarded by the host district.

XII. District Reporting Requirements

The reporting responsibilities of the delegated districts are to provide the SCC with information necessary to evaluate the success of the Nutrient Management program. The information will be provided to SCC or its designee through a report submitted within 25 days of the end of each quarter. Until otherwise notified, DEP will receive reporting information for the SCC. This report will include the following information:

A. Education

1. Educational/Training Efforts -- A minimum of two informational and / or educational 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.
2. Outreach - A minimum of three informal educational efforts will be conducted each year. These efforts may be made through newsletters, newspaper articles, 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.

B. Other district activities

Use the reporting forms for reporting the education/outreach information described above and follow the instructions for the remaining items on the reporting form. The reporting form (Attachment H) and instructions are in Chapter 6, Supplement 4, of this manual.

C. Multi-district arrangements

1. The host district will compile quarterly reporting information for its own district and the associate district(s) for submission to DEP. Single and multi-district arrangements use the same forms and directions.
2. Associate districts will provide quarterly reporting to the host district.

XIII. CAO, VAO Withdrawal from the Program

Pennsylvania Nutrient and Manure Management Program / Administrative Manual
October 2015

- 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
- 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. This new CAO calculation will be reviewed, verified, and acknowledged by the delegated CD (see Chapter 2 for additional guidance)
 - 2. Once the new CAO Calculation is reviewed, verified, and acknowledged by the delegated CD, the operation is now considered a VAO.
 - 3. Since the operation is now 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

XIV. 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. A written fee schedule, if appropriate, that will be charged for 91.36 services performed by the districts. Each district would approve its own fee schedule.
- 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)

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 2 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.
2. The district will conduct technical training programs for consultants assisting farmers in the development of a manure management plans or providing planning services to farmers for manure management plan development. The implementation of this activity may be coordinated with technical trainings for farmers.

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) .
2. 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) .
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. Complaint Response and referral

1. Within 10 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.

G. Reporting

The delegated CD will provide DEP with quarterly reports detailing accomplishments under this delegation agreement that includes, outreach and educational efforts completed, trainings and workshop provided to farmers and consultants, technical assistance activities provided to farmers, the number of complaints, and the number and status of complaint related site visits (Note complaint response for Chapter 91 should be recorded in the Act 38 Attachment H (Chapter 6, supplement 4)). Reports will be submitted on forms supplied by DEP (Chapter 6, Supplement 4) (For multi-county delegation, Host Districts will work in consultation with the Associate Districts).

CHAPTER 4

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

CHAPTER 4 – Nutrient Management Compliance Strategy

(Details)

- I. Nutrient Management Compliance Strategy..... 3
- II. What to do when a conservation district suspects an animal operation to be a CAO..... 3
 - A. Decision Tree..... 6
 - B. Letter 1.A..... 7
 - C. Letter 1.B..... 9
 - D. Letter 1.C..... 11
 - E. Letter 1.D..... 13
 - F. Letter 1.E..... 15
- III. CAOs which have not obtained an approved NMP..... 17
 - A. Decision Tree..... 19
 - B. Letter 2.A..... 20
 - C. Letter 2.B..... 22
 - D. Letter 2.C..... 24
- IV. Act 38 participants whose plans are about to, or have expired..... 26
 - A. Decision Tree..... 28
 - B. Letter 3.A.CAO..... 29
 - C. Letter 3.A.VAO..... 30
 - D. Letter 3.B.CAO..... 32
 - E. Letter 3.B.VAO..... 33
 - F. Letter 3.C.CAO..... 35
 - G. Letter 3.C.VAO..... 37
- V. Operations which fail to fully implement an approved NMP as determined during status reviews inspections or complaint investigations..... 39
 - A. Decision Tree.....41
 - B. Letter 4.A.CAO.....42
 - C. Letter 4.A.VAO.....44
 - D. Letter 4.B.CAO.....47
 - E. Letter 4.B.VAO.....49
 - F. Letter 4.C.....52
 - G. Letter 4.D.....53
- VI. Specific guidance related to the processing of Act 38 enforcement cases.....54
- VII. DEP County Conservation District Agricultural Complaint Response Policy – General Guidelines Packet.....57
 - A. Attachment 1 – Procedures 587
 - B. Attachment 2 – Complaint Handling and Problem Assessment Form..... 65
 - C. Attachment 3 – PA Agricultural Investigation Form..... 67
 - D. Attachment 4 – Bio-Security.....69
 - E. Attachment 5 – Bio-Security Area Trespass Law.....71
 - F. Attachment 6 – Example 1st step letter.....75
 - G. Attachment 7 – Example 2nd step letter.....78
 - H. Attachment 8 – Example 3rd step letter.....81

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 (CD) 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 farmers 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 action 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.

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 farmer 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 farmer. 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 farmer confirming the animal and acreage numbers collected during the site visit; the calculated animal density; and direct the farmer to contact the conservation district if the figures in the letter are incorrect. This letter should also provide the farmer 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 farmer, their obligations under Act 38 and establish a compliance time line.
3. If the farmer 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 farmer. This second option relies on written correspondence for initial communication. Using this option the district should:

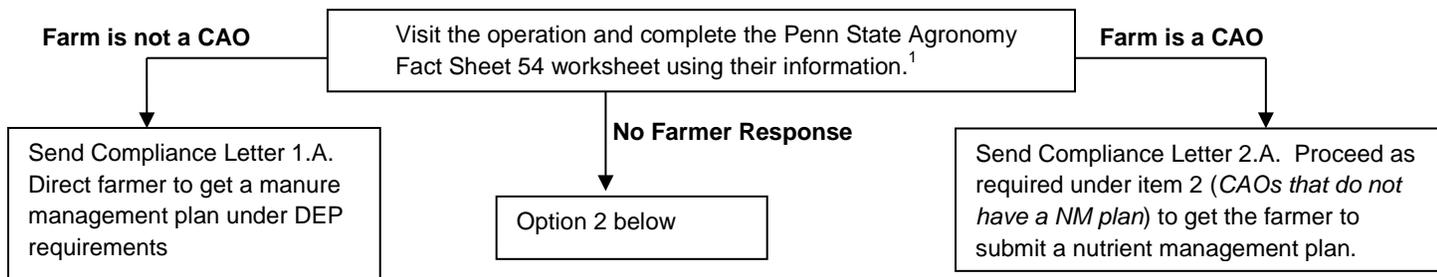
- A. Send an initial 'notification' letter (standard compliance 'Letter 1.B') to the farmer with a copy of the 'Penn State Agronomy Fact Sheet 54' worksheet requesting the farmer complete, sign and date the worksheet , and return it to the conservation district within 14 days. *Note: A submission date should be stipulated in the letter.*
- B. If the conservation district does not receive a response from the farmer 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 farmer, again, requesting the farmer 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 call to the farmer to arrange a site visit to assist the farmer in the completion of the 'Penn State Agronomy Fact Sheet 54' worksheet or complete the worksheet over the telephone with the farmer. The district should send a follow up letter (standard compliance 'Letter 1.D') to the farmer to confirm the time and date of the scheduled visit. If the worksheet is completed over the phone with the farmer, the verbal communication with the farmer should be recorded in the district's files.
- D. If the conservation district cannot arrange a site visit with the farmer, the district should send a fourth 'notification' letter (standard compliance 'Letter 1.E'), by certified USPS mail (return receipt requested), to the farmer (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 farmer to call the conservation district if he cannot meet at this date and time and schedule an alternative meeting time. If the farmer does not show for this appointment, the district should contact the SCC Regional Nutrient Management Program Coordinator to determine the next step.

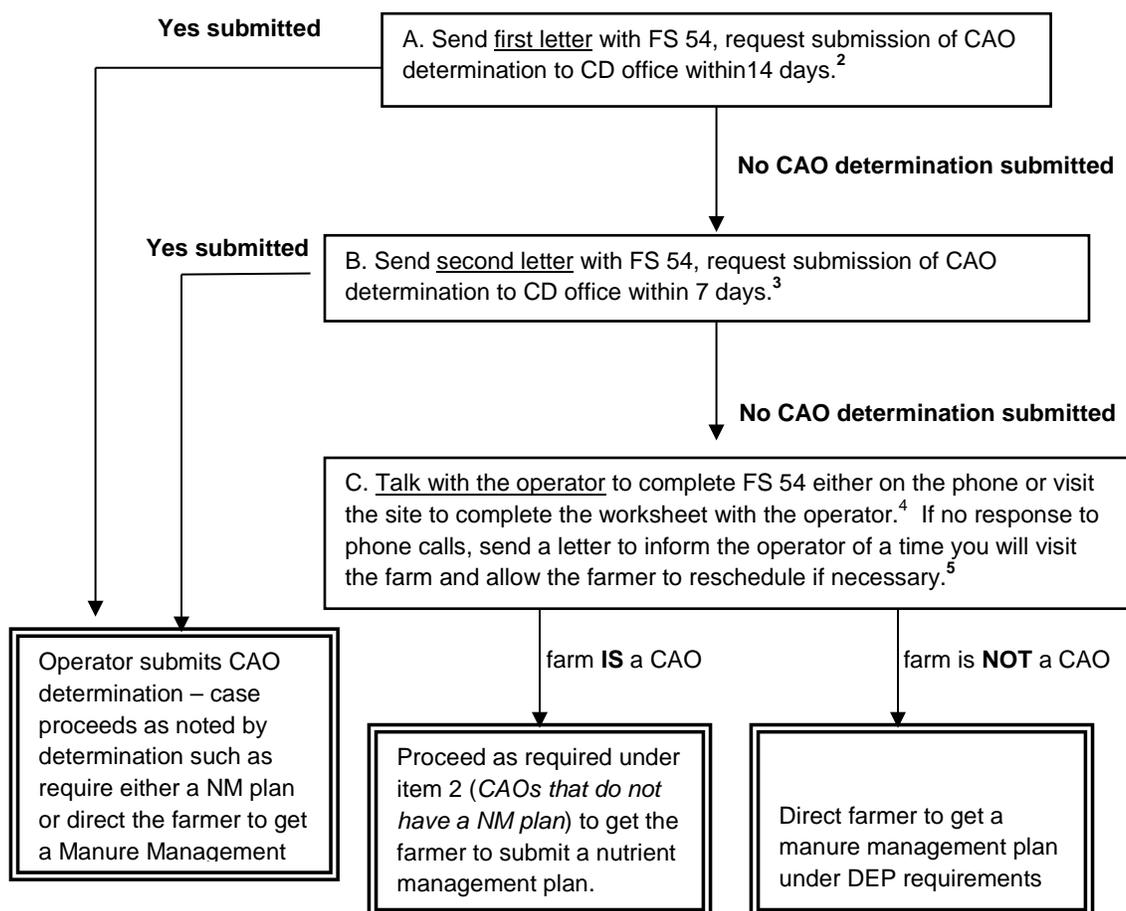
- E. The conservation district may request the assistance of their assigned SCC Regional Nutrient Management Program Coordinator at any time to help in determining how best to approach the farmer to obtain the necessary information directly from the farmer for evaluation of the CAO status of the operation.

***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

Farmer Name (husband and wife (if known))

Address

Re: Confirmation of information provided to calculate animal density status

Dear Mr. and Mrs. **[Farmer Name]**,

Thank you for speaking with me on **[date¹]** in order to work you through the animal density calculation for your animal operation located at **[address²]**, **[County³]** 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 **[date¹]** 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	
AEUs per acre	

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

Date¹ = date you talked to the farmer to determine his animal density

Address² = address of the farm in question

County³ = Your county name

Letter 1.B

Date

Farmer Name (husband and wife (if known))
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to our recent phone calls on **[Date and Time¹]** where we tried to meet with you to provide information and direction to you in regards to calculating the animal density of your farm 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 farms (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 **[County²]** County Conservation District by **[Date³]**. You will need to include on the worksheet your name, 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, you fall under the requirements of this law; 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 you do not fall within the CAO category, 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 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 Number⁴]*. 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 Time¹] = 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

Farmer Name (husband and wife (if known))

Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to our letter on **[Date¹]** where we asked you to provide information in regards to calculating the animal density of your farm 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 farms (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 **[County²]** County Conservation District by **[Date³]**. You will need to include on the worksheet your name, 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, you fall under the requirements of this law; 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 you do not fall within the CAO category, 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 Number⁴]**. 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

[Date¹] = Date that 1st 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: _____

Farmer Name (husband and wife (if known))

Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to our recent phone call where we agreed to meet at your farm on **[Date and Time¹]**. The purpose of this visit is to assist you in determining and documenting the animal density of your animal operation for the purpose of determining your nutrient management planning requirements. As stated in my two earlier letters, high animal density farms (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 time¹]**. 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 farm, 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 Number²]**. I look forward to meeting with you on **[Date and time¹]**.

Sincerely,

NM Staff Person

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

Cc: File

[Date and Time¹] = Date and time that you agreed with the farmer, to meet out at his/her farm

[Phone Number²] = Your office phone number

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

Date

Certified

Mail: _____

Farmer 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. **Farmer Name**,

This letter is a follow up to my two previous letters dated **[Dates¹]** and serves as our final notice to provide information and direction to you in regards to calculating and documenting the animal density of your farm 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 farms (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 out on your farm site 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 out at your farm on **[Day, Date and Time²]** 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 **[Date³]** 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 **[Date²]**. 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 farm, 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 Number⁴]. I look forward to meeting with you on [Date²].

Sincerely,

NM Staff Person

Enclosure: Agronomy Facts #54

CC: File
Regional Nutrient Management Specialist

Date¹ = Dates (2 dates) of first and second letters (1.Band 1.C) sent to the farmer for the purpose of calculating animal density

Day, Date and Time² = 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.

Date² = Date you selected to meet on the farm

Date³ = select a date that is approximately 7 days from the original meeting date.

Phone Number⁴ = 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 farmer 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 plan under Act 38, the conservation district shall:

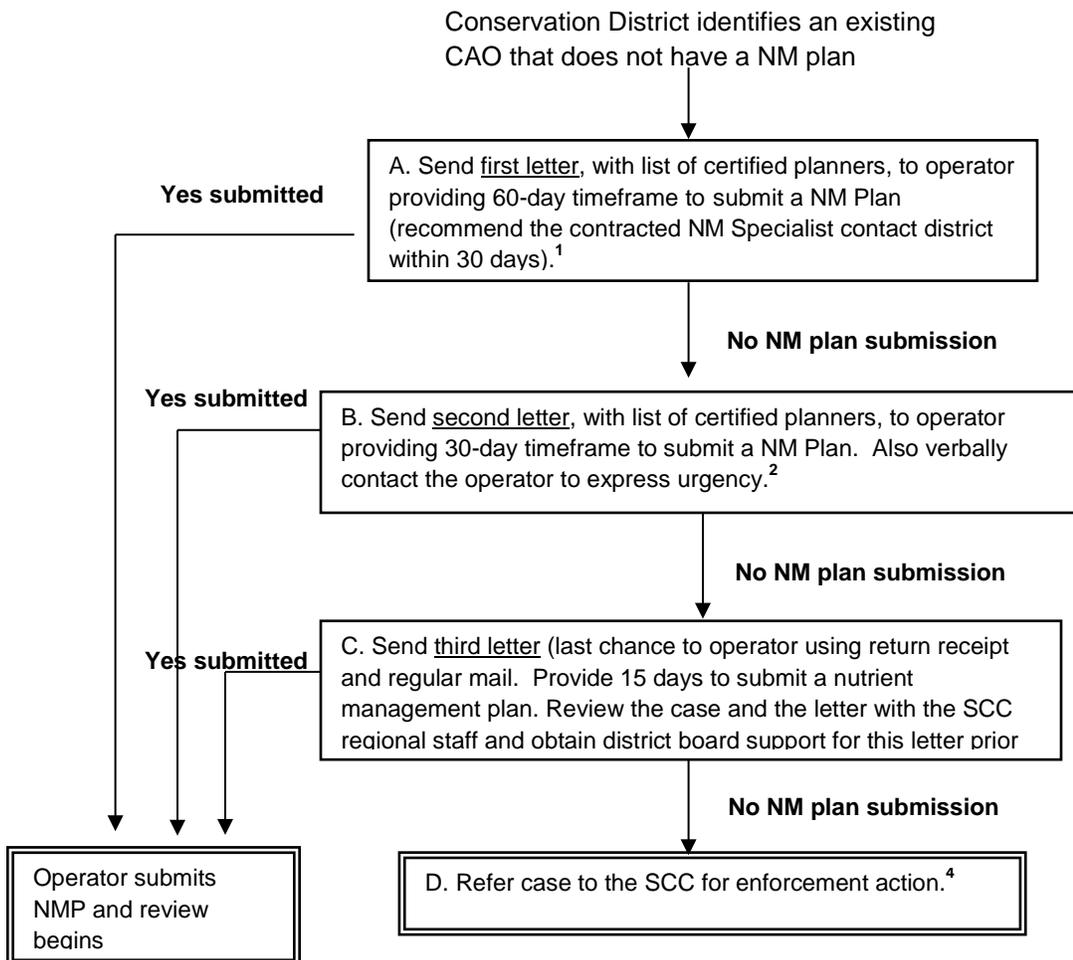
- A. Send a formal first 'notification' letter to the CAO (standard compliance 'Letter 2.A') operation informing the farmer of their obligations under Act 38, and indicating the farmer has 60 days to submit a plan for review by the district. *Note: A submission date should be stipulated in the letter.* 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 farmer should contact the conservation district office within 30 days of the date of the letter to verify that the farmer 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 farmer does not submit a plan within 60 days of the first 'notification' letter sent to the farmer, the conservation district will verbally communicate with the farmer (either by telephone or in person), expressing the urgency to address this issue. A second 'notification' letter (standardized compliance 'Letter 2.B') informing the farmer of their obligation under Act 38 should be sent to the farmer following the verbal communication. In this letter, the conservation district shall provide the farmer 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 farmer should contact the conservation district office within 15 days of the date of the letter to verify that the farmer is working with the planner to develop a plan.
- C. If an farmer does not submit a plan within the second 30 day period, the conservation district shall again call the farmer to explain the urgency of this issue, and send the third 'notification' letter (standardized compliance 'Letter 2.C' – 'Final Notice') indicating this is the farmer'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 if, appropriate. 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 send the case on to the SCC for enforcement if the farmer 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 farmer 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

Farmer Name (husband and wife)

Address

Re: Requirement to Obtain an Approved Nutrient Management Plan

Dear Mr. and Mrs. **Farmer 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 farmers 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 **[Date¹]**. 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 **[District²]** 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 Number³]** 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

Date¹ = *This date should be about 60 days from the date the letter is expected to reach the farmer*

District² = *the name of your conservation district such as "Lebanon County Conservation District"*

Phone Number³ = *Your office phone number*

Letter 2.B

Date

Farmer Name (husband and wife)

Address

Re: Requirement to Obtain an Approved Nutrient Management Plan

Dear Mr. and Mrs. **Farmer Name,**

This letter is being sent as a follow up to my previous letter dated **[Date¹]** 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 **[District²]** 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 **[County³]** County) to develop and submit a nutrient management plan (NMP) to the conservation district for our 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 **[Date⁴]**. 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 Number⁵]** so that I can provide whatever additional direction you may need.

Sincerely,

NM Staff Person

cc: File

Enclosure: Commercial Nutrient Management Specialist list

Date¹ = Date of first strike letter

District² = Your conservation district name

County³ = The county where the farmer resides

Date⁴ = This date should be about 30 days from the date the letter is expected to reach the farmer

Phone Number⁵ = Your office phone number

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

Date

Certified

Mail: _____

Farmer Name (husband and wife)

Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to my two previous letters dated **[Dates¹]** 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 **[Date²]**. 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 Number³]** so that I can provide whatever additional direction you may need.

Sincerely,

[CCD⁴] District Manager

cc: *SCC Regional NMA Coordinator*

File

Dates¹ = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer for the purpose of calculating animal density

Date² = This date should be about 15 days from the date the letter is expected to reach the farmer

Phone Number³ = Your office phone number

CCD⁴ = The name of your conservation district

Signatory District Manager

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 farmer is required to ensure they have a valid and current plan every 3 years. For CAOs (or VAOs) implementing one or two year plans, this effort is required more frequently, based on the lifespan of the plan.

In order to ensure that the CAO 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 farmer. This letter should inform the farmer 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 farmer does not submit the required paperwork [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 farmer. The letter should indicate the farmer's plan maintenance requirement under Act 38, directing the farmer to submit an appropriate plan or documentation within 60 days.
- C. If the farmer 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 farmer 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, 20XX at 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.

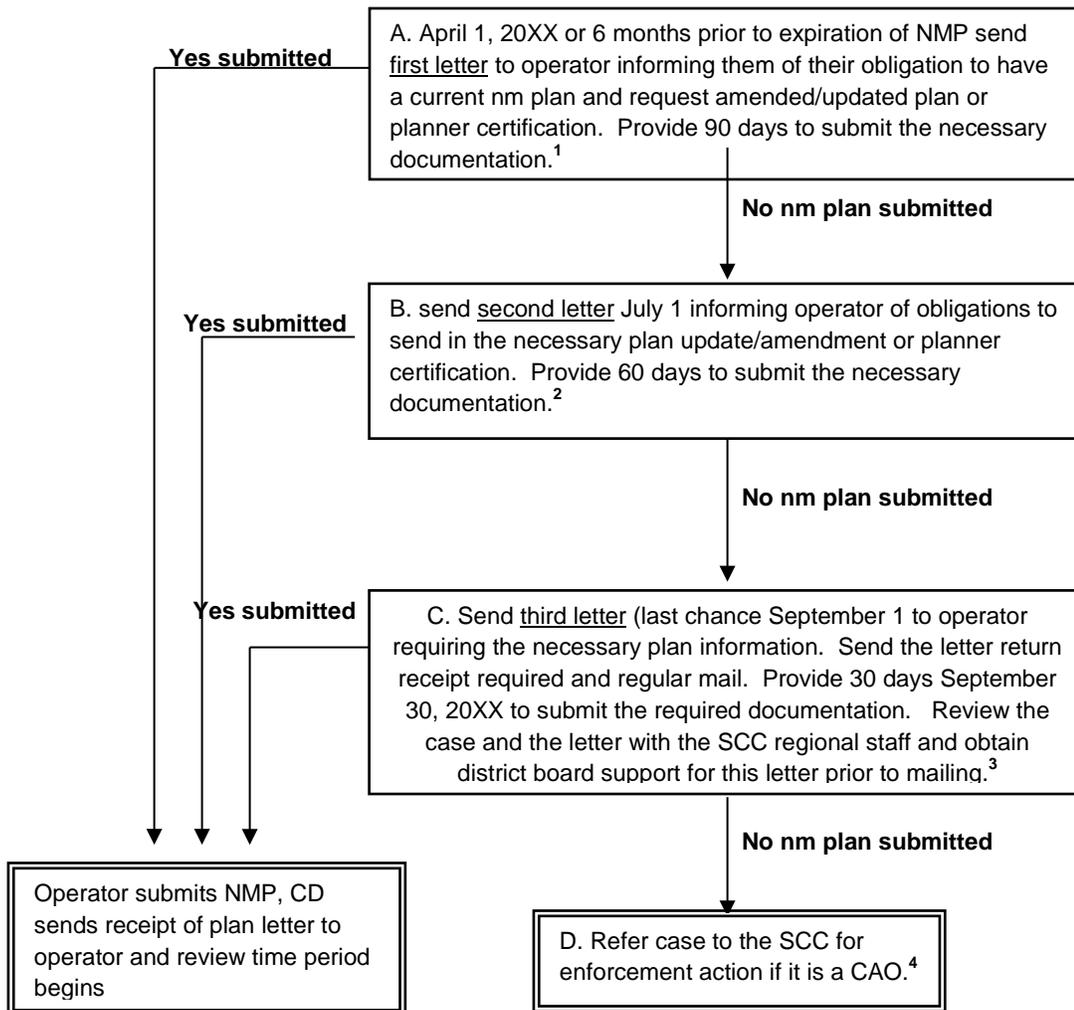
- D. Prior to sending the third 'notification' letter ('Final Notice'), the conservation district shall review the case with their SCC Regional Nutrient Management Program Coordinator for guidance concerning the district's referral options, if appropriate. For CAOs, the district staff shall review the 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 paperwork 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.

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)

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name,**

Your current Nutrient Management Plan (plan) approved on **[Date¹]** 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.

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 Number⁴]**) so that I can help you understand this requirement.

Sincerely,

NM Staff Person

Enclosure: List of certified planners for the county

cc: File

Date¹ = date of approval of NMP

Phone Number⁴ = Your office phone number

Phone Number⁴ = Your office phone number

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

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

Your current Nutrient Management Plan (plan), which was approved on **[Date¹]**, 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.

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 Number⁴]**) so that I can assist you.

Sincerely,

NM Staff Person

Enclosure: List of certified planners for the county

cc: File

*Date*¹ = plan approval date

*Phone Number*⁴ = Your office phone number

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

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my previous letter dated **[Date¹]** reminding you that your Nutrient Management Plan (plan) will soon expire and instructing you to submit a plan update or amendment.

The **[District²]** still has not receive 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.**

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 Number⁵]**) so that I can provide whatever additional information or direction you may need.

Sincerely,

NM Staff Person

cc: File
SCC Regional Coordinator

Date¹ = Date of first letter

District² = Your conservation district name, such as Lebanon County Conservation District

Phone Number⁵ = Your office phone number

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

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my previous letter dated **[Date¹]** 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 **[District²]** 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

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 farm, 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 Number⁵])* so that I can assist you.

Sincerely,

NM Staff Person

ENCLOSURE – Planner list

CC: File

*Date*¹ = *Date of first letter*

*District*² = *Your conservation district name, such as Lebanon County Conservation District*

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

CERTIFIED

MAIL: _____

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to my two previous letters dated **[Dates¹]** and serves as our final notice to inform you of your legal obligation to submit an update or amendment to your Nutrient Management Plan (plan).

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 a NMP at all times.

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 at the conservation district office (**[Phone Number³]**) so that I can provide whatever additional information or direction you may need.

Sincerely,

[District⁴], District Manager

cc: *SCC Regional NMA Coordinator*
File

Dates¹ = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer for the purpose of calculating animal density

Phone Number³ = Your office phone number

District⁴ = Your district name, such as Lebanon County Conservation District

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

CERTIFIED

MAIL: _____

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to my two previous letters dated **[Dates¹]** and serves as the final reminder of your need to submit an update or amendment to your Nutrient Management Plan (plan).

Your current plan expires September 30, 20XX. **This letter represents your last chance to submit the necessary revised plan to our office or we will be compelled to cancel your volunteer status under the Nutrient Management Law.** 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 farm, 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).**

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 Number²])** so that I 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

cc: File

Dates¹ = Dates (2 dates) of first and second letters (1.B and 1.C) sent to the farmer for the purpose of calculating animal density
Phone Number³ = Your office phone number

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 farmers

Within a week of performing a status review or complaint inspection, the conservation district should send a formal letter to the farmer 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 farmer. 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 farmer 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 farmer that a follow up inspection will be scheduled shortly after the corrective timeframes listed in the letter to verify the farmer'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 farmer 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.

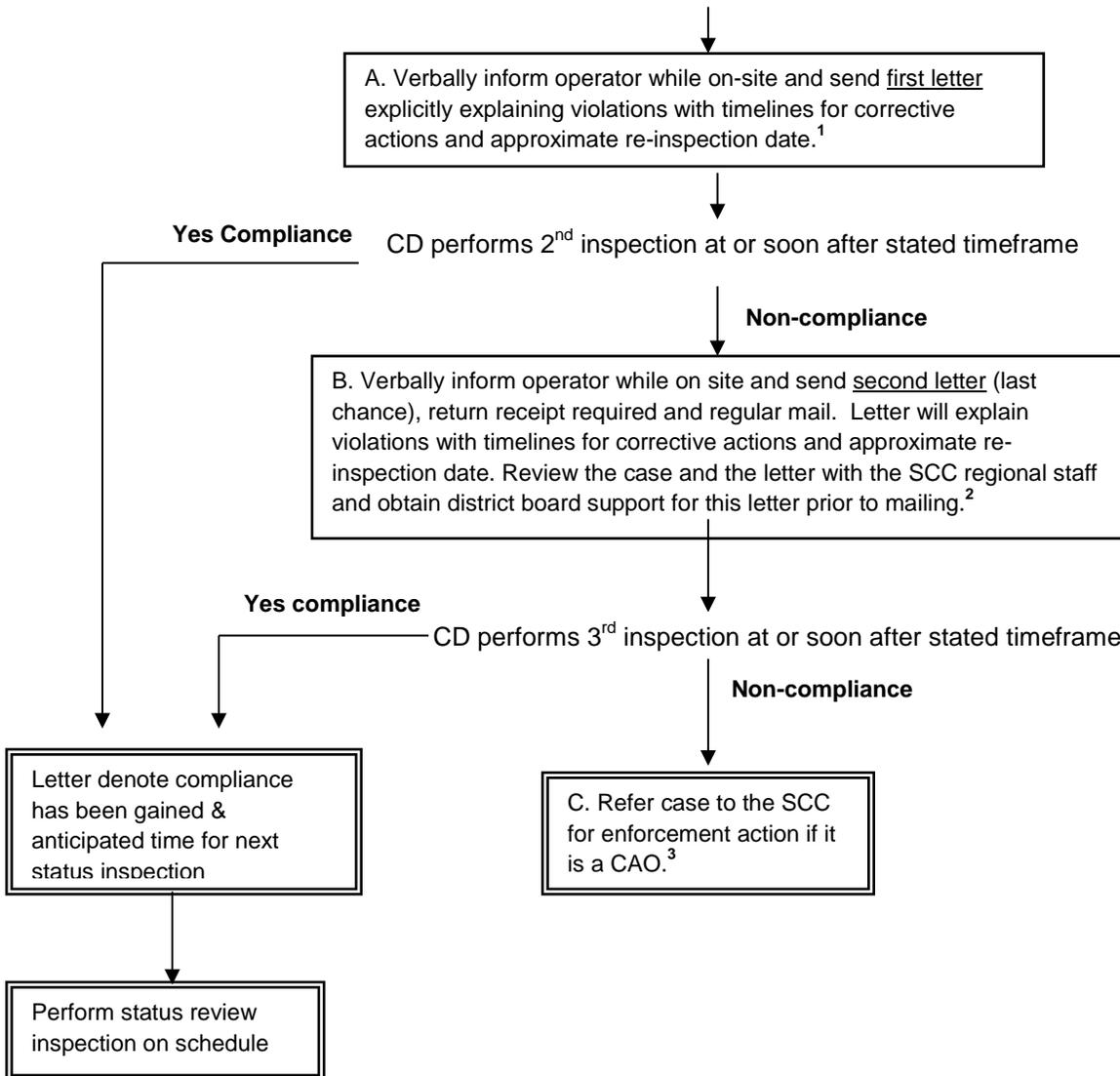
1. If non-compliance issues remain, they should be listed in the second 'notification' letter ("letters 4.B. CAO or 4.B. VAO), along with any corrective actions required for compliance and a stipulated date for completion. A conservation district should review the case with their SCC Regional Nutrient Management Program 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. This action of the board should be recorded in the minutes of the meeting.
- C. If at any time the farmer 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 farmer informing them of the conservation district's attempts to arrange a site visit with the farmer. The letter should direct the farmer 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 farmer fails to contact the conservation district office within the allotted 10 days , the conservation district shall send a letter to the farmer indicating the date they will be at the site to perform the inspection, directing the farmer or his representative to be available for this inspection. This letter will provide the farmer 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

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)

CD performs status review or complaint inspection (1st inspection) and determines the farmer is not following their plan as required.



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

Farmer Name (husband and wife)

Address

Re: Requirement to Implement Your Current Nutrient Management Plan

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my **[Date¹]** 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:

Non-Compliance finding	Corrective action required	Timeframe to complete corrective action
[Finding²]	[Actions Required³]	[Date⁴]

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 Time⁵]** 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

Date¹ = date of site visit

Finding² = Individually list the deficiencies you noted during your inspection

Actions Required³ = List individually the correction actions required to come back into compliance

Date⁴ = 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 Time⁵ = 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

Farmer Name (husband and wife)

Address

Re: Reminder to Implement Your Current Nutrient Management Plan

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my **[Date¹]** 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:

Implementation deficiency finding	Corrective action needed	Timeframe to complete corrective action
[Finding²]	[Actions Needed³]	[Date⁴]

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 farm on **[Date and Time⁵]** 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 farm, 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

Date¹ = date of site visit

Finding² = Individually list the deficiencies you noted during your inspection

Actions Needed³ = List individually the correction actions required to come back into compliance

Date⁴ = 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 Time⁵ = *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: _____

Farmer Name (husband and wife)
Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my **[Date¹]** site visit where I reassessed the implementation status of your Act 38 (commonly referred to as Pennsylvania’s Nutrient and Odor Management Act) Nutrient Management Plan. This was my second visit to verify that you implemented the required corrective action(s) as outlined in my earlier letter dated **[Date²]**. As of the date of this re-inspection, you have not met the plan implementation requirements outlined in my 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):

Non-Compliance finding	Corrective action required	Timeframe to complete corrective action
[Finding³]	[Actions Required⁴]	[Date⁵]

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 Time⁶]** in order to reassess your operation. All compliance issues noted above are required to be corrected at the time of my next visit. Please make yourself available on that date so we 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 me 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** directing you to comply with these regulatory requirements. If you have not completely implemented the required corrective action(s) at the time of my 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 farms 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 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

cc: File
SCC Regional Coordinator

Date¹ = Date of second site visit

Date² = Date of first letter (standard letter 4.A.)

Finding³ = *Individually list the deficiencies you noted during your inspection*

Actions Required⁴ = *List individually the correction actions required to come back into compliance*

Date⁵ = 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 Time⁶ = *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.VAO (sent certified mail return receipt requested and regular mail)

Date

CERTIFIED MAIL: _____

Farmer Name (husband and wife)

Address

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

Dear Mr. and Mrs. **Farmer Name**,

This letter is sent as a follow up to my **[Date¹]** site visit where I 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 my follow up visit to verify that you implemented the corrective action(s) outlined in my earlier letter dated **[Date²]**. As of the date of this re-inspection, you have not implemented the corrective measures outlined in my 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
[Finding³]	[Actions Needed⁴]	[Date⁵]

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 once again revisit your operation in order to confirm that you have implemented the above listed corrective action(s). I plan to visit your farm on **[Date and Time⁶]** 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.

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 action(s) at the time of my next visit, our office will be obligated to cancel your voluntary status under the Act 38 program.**

I 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. 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 farm, 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 District Manager

Enclosure: Inspection Report
Withdrawal letter

cc: File

Date¹ = Date of second site visit

Date² = Date of first letter (standard letter 4.A.)

Finding³ = *Individually list the deficiencies you noted during your inspection*

Actions Needed⁴ = *List individually the correction actions required to come back into compliance*

Date⁵ = 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 Time⁶ = *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

Farmer Name (husband and wife (if known))
Address

Re: Site Visit for Follow Up Compliance Inspection

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to my pervious phone calls on **[Dates¹]** 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 Number⁴]** by **[Date²]** 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 Number²]**.

Sincerely,

NM Staff Person

CC: Regional Nutrient Management Specialist
File

Date¹ = Dates of missed calls

Date² = 10 days from expected receipt of letter

Phone Number² = Your office phone number

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

Date

CERTIFIED MAIL: _____

Farmer Name (husband and wife (if known))

Address

Re: Site Visit for Follow Up Compliance Inspection

Dear Mr. and Mrs. **Farmer Name**,

This letter is a follow up to my pervious phone calls on **[Dates¹]** and letter **[Dates¹]** 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 farm on **[Day, Date and Time²]** 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 **[Date³]** 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 Number⁴]**. I look forward to meeting with you on **[Date²]**.

Sincerely,

NM Staff Person

CC: Regional Nutrient Management Specialist
File

Date¹ = Dates of missed calls and letter 4.C

Day, Date and Time² = 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.

Date² = Date you selected to meet on the farm

Date³ = select a date that is approximately 7 days from anticipated receipt of letter.

Phone Number⁴ = Your office phone number

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

General direction relating to dealing with problem farms:

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) are not enforceable under Act 38.
2. CD staff should determine if the farmer 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. CD staff should document all communications with farmers 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. CD staff are directed to inform SCC regional staff of cases where the district is struggling to gain compliance.
5. CD staff should inform their respective supervisors, district managers and district boards of cases where the district is struggling to gain compliance with operators.
6. CD 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. 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, CD staff shall present the case to the CD 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) mentioned above, the CD shall submit:

Pennsylvania Nutrient and Manure Management Program / Administrative Manual
October 2015

- all correspondence sent to the non-compliant farmer 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 farmer to the CD 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 farmer, 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 farmer demonstrating his compliance efforts, or, any action taken by the farmer demonstrating his unwillingness to comply
- a list and brief description of any pertinent communications between CD 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 CD staff, but SCC staff may be asked to help develop this document if needed.)

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

Issues relevant to the CD once they refer an enforcement case to the SCC

9. The CD 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 farmer or his lawyer and media folks looking to develop a story.

10. It should be noted that in most cases, the violators file at the CD 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, if a request for public review is made

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. CD staff may be invited to accompany SCC staff on this site visit, but it is not mandatory that CD staff attend. A site inspection report shall be completed documenting this visit. One copy of this report shall be provided to the farmer and a second copy shall be provided to the CD 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 CD will be copied on these documents.

13. The CD needs to keep the SCC regional staff person informed of any developments relating to the violator's 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 farmer will be sent a letter from the SCC acknowledging the farmer's completion of the tasks. This letter will be copied to the CD.

DEP CHAPTER 91

COUNTY CONSERVATION DISTRICT AGRICULTURAL COMPLAINT RESPONSE POLICY – GENERAL GUIDELINES PACKET

Attachment 1

Procedures

This attachment provides suggested guidelines and suggested procedures that the conservation district may use for complaint investigation and follow up activities.

These guidelines were developed from procedures and actions currently used by districts investigating complaints, procedures found in the Chapter 102 and Nutrient Management programs, and comments provided during the initial comment period on the Draft Model Policy. These procedures include general suggestions, guidelines to follow when investigating pollution events, voluntary compliance procedures or “steps”, additional information for cases referred to DEP, and action for non-water quality related complaints that may be received by a conservation district.

DEP recognizes that conservation districts are, first and foremost, problem solvers for the agricultural community. These guidelines and procedures were included to recognize that voluntary compliance is the first approach for conservation districts when responding to complaints, particularly those that do not involve on-going water pollution incidents. However, these guidelines and procedures also recognize that conservation districts do have some level of responsibility to address non-compliance. Some districts have specific compliance and enforcement responsibilities, depending on the district’s specific level of program delegation, and these procedures (and forms) do not replace program specific requirements. Other districts have county-specific procedures they apply to address complaints or on-going non-compliance.

While these specific procedures are not mandated actions, DEP does encourage districts to adopt similar or consist procedures. DEP does expect that conservation districts, particularly those in the Chesapeake Bay watershed, have procedures in place to implement their Complaint Response Policy. Also, when referring cases to DEP, the closer the conservation district is to applying processes and procedures contained in this attachment, the more likely it is that DEP can quickly and effectively respond to the referral.

Agricultural Complaint Investigation and Follow-up Procedure

A) General:

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.

The District should provide the landowner and/or operator a complete copy of the INVESTIGATION FORM (Attachment 3) with follow-up timeframes.

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 should use the complaint investigation and follow-up process to provide one-on-one education.

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.

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 (for example – Coordinate with NRCS for conservation planning and technical assistance)

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).

B) For Documented Pollution Events:

For complaints that the District has documented or actively witnessed a pollution event, the District shall:

- 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. The corrective actions can include NRCS Technical Guidance or BMPs included in technical guidance. For example, the District may suggest actions like the placement of straw bales, etc.,
- Complete an investigation form (attachment 3), and provide / send a copy of the written report 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 a complaint is referred to the Department under this subsection because of a documented or actively witnessed pollution event, the Conservation District does not have to follow the 3 steps approach described below.

C) For complaints without an active pollution event, but the Operation is out of regulatory compliance:

Step 1

- Document the findings of the initial visit with an investigation report, including photographs, if applicable.
- Provide a copy of the completed investigation report 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 check back to reassess the operation soon after the 90 day corrective action timeframe to determine if compliance has been achieved.
- Communication with the landowner and/or operator can be in a form chosen by the conservation district. A letter, e-mail, or verbal communication may be appropriate. Whatever the mechanism, the conservation district should

communicate the results of the complaint investigation 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 implemented within the time frame provided in Step 1, the landowner and/or operator has an additional 45 days to come into compliance.

- Document the findings of the visit with an investigation report, including photographs, if applicable.
- Provide a copy of the completed investigation report 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 can be in a form chosen by the conservation district. A letter, e-mail, or verbal communication may be appropriate. Because this is the second attempt to correct a problem site, it may be appropriate to address this in writing. Whatever the mechanism, the conservation district should communicate the results of the complaint investigation 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 3

If corrective actions are not implemented within the time frame provided in the second step, give the landowner and/or operator a final 15 days to comply.

- 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, or 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 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 finished by the date given in the 3rd step letter, the Conservation District will forward the information relating to this situation to the DEP Regional Office for enforcement action.**

D) Additional Guidance for DEP Referral

The implementation of this Agricultural Complaint Investigation and Follow-up Procedure is dependent on the Conservation District and agency partners having adequate technical resources available to monitor and direct responsible parties of their compliance requirements.

This Agricultural Complaint Investigation and Follow-up Procedure does not provide the landowner and/or operator the exemption (or “safe harbor”) from a violation of The Clean Streams Law or the regulations promulgated thereunder.

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 site inspection reports and 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. Investigation reports 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 operators actions to address the violation.

E) Non-water quality based complaints that fall outside of the DEP jurisdiction

The District may perform an initial investigation of complaints that fall outside of the DEP jurisdiction for non-water quality based complaints and, as appropriate, refer the case to the appropriate agency or agricultural organization that handles the matter. These other agencies may include the SCC Ag Ombudsman, Pennsylvania Department of Agriculture, PA Farm Bureau, or local law enforcement. Referral is not a requirement.

The District may also refer the complainant to the appropriate agency if the District does not routinely perform these types of investigations.

The following list is provided as a reference of possible complaints and the agency / organization that may address this complaint:

- Flies – State Conservation Commission Agriculture Ombudsman.
- Odors – State Conservation Commission Agriculture Ombudsman.
- Pesticide Misuse – Pennsylvania Department of Agriculture, Bureau of Plant Industry.
- Dead Animal Disposal – Pennsylvania Department of Agriculture, Bureau of Animal Health and Diagnostic Services.
- Mud and/or Manure on the road – Municipal Police, if applicable, or the Pennsylvania State Police.
- Nuisance complaints, including any of the above – Pennsylvania Farm Bureau and State Conservation Commission Agriculture Ombudsman.
- Mishandling of manure by commercial manure applicators – Pennsylvania Department of Agriculture’s State Conservation Commission Office.

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

(Note: DEP Form #3930-FM-WM0135 or similar may also be used)

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.

PA AGRICULTURAL INVESTIGATION FORM

Investigation form for Complaint Responses that are Non-NPDES and / or Non-Act 38 Compliance Inspections

DATE: _____ **TIME:** _____
COUNTY: _____ **MUNICIPALITY:** _____
INSPECTOR: _____ **TITLE:** _____

Agricultural Inspection Due to Complaint – General Information

Farm Owner: _____ **Farm Operator:** _____
Address: _____ **Address:** _____
_____ _____
Phone: (____)____-____ **Phone:** (____)____-____

Nearby Stream Name / Watershed / Designation / Impairment: _____

Types and Number of Animals: _____

Manure/Waste Types:	Storage Method:	Location:
1. _____	_____	_____
2. _____	_____	_____
3. Milkhouse Waste	_____	_____
4. Silage Leachate	_____	_____

Liquid or Semi Solid Manure Storage Facilities:
Dimensions: _____ **Reported Volume:** _____ **Freeboard:** _____
Age: _____ **PE Certification:** _____

Animal Access to Stream:

Stream Buffer Protection:

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.

Attachment 6 Example 1st 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.

Attached you will find a list of certified nutrient management planners and agricultural E&S planners 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 planners to find the specialist 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 the required plans developed and start implementation of BMPs by [Date¹]. 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 certified commercial nutrient management specialist, agricultural E&S planner, or yourself are developing your plan(s) and 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
Date¹ = *This date should be about 90 days from the date the letter is expected to reach the farmer*

Attachment 7
Example 2nd 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 *[Date¹]* (If the district chose this option) and the Pa Agricultural Investigation Form dated *[add dates from 1st investigation report and 2nd 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 1st investigation and 2nd 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 1st and 2nd 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).

To gain compliance you are requested to work with a certified nutrient management planner and/or agricultural E&S planner. Attached you will find a list of certified nutrient management planners and agricultural E&S planners to assist you in [Choose] (developing and implementing the required plans) and/or (Implementation of BMPs). Please contact multiple planners to find the specialist 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 the required plans developed and start implementation of BMPs by [Date²].

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 certified commercial nutrient management specialist, agricultural E&S planner, or yourself are developing

your plan(s) and 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*² = This date should be about 45 days from the date the letter is expected to reach the farmer

Phone Number = Your office phone number

Attachment 8

Example 3rd 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 my [choose] (one or two) previous letter(s) dated [Date(s)] 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 (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 the installation of certain BMPs)

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 start implementation of the required plans, by [Date²].

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 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] so that I can provide whatever additional direction you may need.

Sincerely,

[CCD] Chairperson

cc: DEP regional office

File

Choose – Choose the planning or BMP implementation that is needed
Dates¹ = Dates (2 dates) of 1st (if applicable) and 2nd step letters
Date² = 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

I.	Memorandum of Understanding Between the Department of Environmental Protection and the State Conservation Commission.....	4
	Memorandum of Understanding Between the Department of Agriculture and the State Conservation Commission.....	8
II.	Statement of Policy.....	10
III.	Delegation Agreements.....	19
	Single County.....	20
	Multi-county.....	55
IV.	Model Inter-District Reciprocal Agreement for Reciprocal Review of Nutrient Management Plans	97
V.	PA Bulletin Notices for Submission and Actions on CAFO NMPs and CAFO Decision Trees.....	103
VI.	Suggested CD BOD Meeting Procedures to Follow	109
	- Suggested CD BOD Meeting Template for Chairman to Follow.....	113
VII.	Appeals of District Decisions on NMA Delegated Responsibilities.....	115
VIII.	Reference Materials.....	118
IX.	Program Contacts.....	121
X.	DEP Watershed Codes.....	130

**MEMORANDUM OF
UNDERSTANDING OF SUPPORT
ROLES TO THE STATE
CONSERVATION COMMISSION**

(Appendix I)

MEMORANDUM OF UNDERSTANDING

Between the Department of Environmental Protection and the State Conservation Commission

This Memorandum of Understanding is entered into this 15th day of February, 1996, by and between the State Conservation Commission, and the Pennsylvania Department of Environmental Protection.

WHEREAS, the Department of Environmental Resources (DER) was created by Act 1970-275 to exercise the powers and perform the duties by law heretofore vested in and imposed upon certain specified Commonwealth agencies, boards and commissions.

WHEREAS, the Department of Environmental Protection (DEP) was created by Act 1995 18 as the successor agency to DER.

WHEREAS, The State Conservation Commission (Commission) was created by the Legislature of the Commonwealth of Pennsylvania by the Conservation District Law, Act 1945-217, and is charged with providing administrative, financial, educational, information and other assistance to Conservation Districts in planning and implementing conservation programs to protect and enhance the Commonwealth's natural resources.

WHEREAS, the position of Executive Secretary for the Commission was created by Act 1995-18 and charged with responsibilities to act as independent staff of the commission and to carry out assigned duties and responsibilities as assigned by the Commission in order to develop, implement and enforce conservation programs, including the Nutrient Management Act, Act 1993-6.

WHEREAS, Act 1995-18 and this Memorandum recognize the critical importance of more actively involving the agricultural community in the environmental decision making process, especially for those environmental programs and policies of the Commission that solely affect production agriculture, in order to more effectively resolve agriculturally related water quality problems.

WHEREAS, historically the agricultural community has successfully utilized education, outreach and voluntary compliance in an effort to resolve conservation and environmental related problems and concerns.

WHEREAS, Act 1995-18 states that both the Secretary of the Pennsylvania Department of Agriculture (PDA) and the Secretary of DEP shall designate an office and staff within each agency to coordinate and assist in the development, implementation, and enforcement of programs adopted by the Commission.

WHEREAS, Section 501 and 502 of the Administrative Code of 1929 (71 P.S. Sections 181 and 182) require Commonwealth departments and agencies to coordinate their work and activities with other Commonwealth departments and agencies.

WHEREAS, this Memorandum is intended to strengthen the programs and relationships of the commission, the department, and county conservation districts, and to continue to

Appendix I - MOU

build on the strong Commonwealth support of conservation districts and the citizens and communities they serve.

WHEREAS, it is mutually agreed by all signatory parties that it is highly desirable to sustain an economically sound agricultural industry and at the same time protect our soil and water resources which sustain Pennsylvania's economy and strong agricultural industry.

NOW, THEREFORE, the parties of this Memorandum set forth the following as the terms and conditions of their understanding. The Department of Environmental Protection will, within the limits of its capabilities and resources:

- 1) Until June 30, 1996, continue to pay the administrative expenses and the salary and expenses of the Executive Secretary. DEP will support the establishment of a line item within PDA's budget to pay these expenses for fiscal year 1996-97 and beyond.
- 2) Strive to provide state funding to reimburse conservation districts for their efforts in administering DEP program responsibilities that are assigned to or assumed by conservation districts.
- 3) Provide sufficient central office and field staff to assist the commission in carrying out its obligations under Act 1945-217, as modified by Act 1995-18, including, but not limited to:
 - a) assist the directors of conservation districts
 - b) keep directors of conservation districts informed of useful activities and experience of other districts
 - c) develop and carry out initiatives to increase the technical and administrative capabilities of
 - d) conservation district directors and staff
 - e) provide program information to conservation districts
 - f) transfer funding to conservation districts as approved by the Commission
 - g) provide oversight to district utilization of state and local funds
 - h) ensure that DEP's central and regional offices work cooperatively with the Commission and
 - i) conservation districts to administer delegated programs in an efficient and consistent manner.
- 4) Provide staff or technical and administrative support to the Commission in the development, implementation and enforcement of those portions of the Nutrient Management Program which are in whole or in part to protect surface or ground water, as outlined in Addendum "A".
- 5) Utilize the Commission to implement Pennsylvania's Chesapeake Bay Program.
- 6) Continue to administer the Environmental Advisory Council Law through a letter of agreement with the Commission.

The State Conservation Commission, through its Executive Secretary, will within the limits of its capabilities and resources:

- 1) Cooperate with DEP staff in developing and administering programs to increase the technical and administrative capabilities of conservation district directors and

Appendix I - MOU

staff.

- 2) Coordinate with DEP the development, administration, support and enforcement programs as authorized by Act 1945-217, as amended by Act 1995-18.
- 3) Administer the Nutrient Management Program created by Act 1993-6, and as modified by Act 1995-18, and coordinate resources between the two departments in order to effectively carry out the program, as outlined in Addendum "A".
- 4) Coordinate program needs with appropriate program managers and staff in DEP Central and Regional Offices
- 5) Provide support and policy direction to Pennsylvania's Nutrient Reduction Program for the Chesapeake Bay.
- 6) Continue to participate in the administration of the Landowner Reclamation Program to permit landowners to reclaim their abandoned mine lands by utilizing bond forfeiture funds.
- 7) Coordinate administration and enforcement of DEP programs delegated to districts under the Conservation District Law.
- 8) Report to the Secretary of DEP on accomplishments, problems and concerns related to Commission programs.

Appendix I - MOU

All Parties acknowledge that:

- 1) This memorandum will be in effect for a five (5) year period from the signing- date. After a four (4) year period has passed, it will be reviewed, modified as needed, and a new memorandum established if necessary by mutual consent by both parties. In addition, either party may terminate this memorandum at any time upon sixty (60) days written notice to the other party.
- 2) Addendum "A" will be reviewed annually and may be modified at any time by mutual consent of all parties.
- 3) This memorandum is not intended to and does not create any contractual rights or obligations with respect to the signatory agencies or any other parties.
- 4) Any dispute arising hereunder shall be submitted to the Office of General Counsel for final resolution.
- 5) The parties hereby acknowledge the foregoing as terms and conditions of their understandings.

DEPARTMENT OF ENVIRONMENTAL PROTECTION, Commonwealth of Pennsylvania

STATE CONSERVATION COMMISSION

By: Jan M. Long

By: Executive Secretary

Secretary

March 7 6

Date: __, 199__

The signing of this memorandum of understanding on behalf of the State Conservation Commission was authorized by a resolution at its meeting on January 4, 1996.

Karl A. Brown

Approved as to legality and form:

2-15 6

Chief Counsel
Department of Environmental Protection

Office of General Counsel

By: _ Title

Date: __, 199__

[Signature]
[Signature]
WDC

ADDENDUM “A” MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE STATE CONSERVATION COMMISSION

Agency Support Roles in the Nutrient Management Program

The State Conservation Commission is charged with the main authority to develop and implement the Nutrient Management Act (ACT 1993-6) program. This will involve a variety of activities for which the Commission will need support from DEP and PDA.

The following list identifies the major program support activities for each department. These responsibilities are identified as primary support functions (lead agency), and secondary support functions (assisting agency) . Regular interagency meetings, coordinated by the Executive Secretary, will allow adjustments of program priorities and will be critical to the success of the program.

DEP’s Primary Support Responsibilities of the State Conservation Commission’s Nutrient Management Program

- Finalize and implement the delegation of duties to conservation districts, including development of the program’s administration manual.
- Conduct, in cooperation with PDA, joint evaluations of district nutrient management programs.
- Identify best management practices to be used for proper nutrient management, provide technical assistance to conservation districts and the agricultural community, and provide continuing evaluation of their suitability and effectiveness.
- Provide administrative support for use of the Nutrient Management Fund.
- Develop and carry out a program for evaluating the environmental effectiveness of the overall program. This includes information needed to assist the Commission in re-evaluating the criteria for CAOs and criteria for nutrients of concern.
- Coordinate the Nutrient Management program with other DEP programs to help ensure efficient and effective use of program resources.
- Support the Commission with enforcement where a violation of the Clean Streams Law has occurred.

DEP’s Secondary Support Responsibilities of the State Conservation Commission’s for Nutrient Management Program

- Assist with the development of regulations and policies by providing input and environmental considerations, including water quality impacts.
- Assist with the development of alternative uses of manure.
- Assist with the development and implementation of a financial assistance program.
- Assist in providing technical support of the commission to administer the program in counties where the conservation district does not have delegation.

Appendix I - MOU

- Assist in education and outreach activities.
- Assist in identifying potential volunteers and other program participants.

PDA's Primary Support Responsibility of the State Conservation Commission's Nutrient Management Program

- Formulate regulations and policies, including support for the Nutrient Management Advisory Board in carrying out administrative steps for regulation promulgation, including public meetings and hearings.
- Implement a nutrient management education program, in cooperation with the Nutrient Management Advisory Board, the Cooperative Extension Service, and conservation districts; and provide outreach activities to farm organizations, agribusiness, general public, and banking industry.
- Develop and promote alternative uses for excess manure, in cooperation with the Nutrient Management Advisory Board. - Coordinate with DEP for applicable environmental considerations.
- Serve as principal contact with farmers when conservation districts are not involved.
- Act as an ombudsman in reviewing the conservation district's handling of the nutrient management program when a farmer is aggrieved.
- Develop and implement a financial assistance program.
- Coordinate training program for PA Department of Agriculture staff to enlist their support in identifying potential volunteers and other program participants.
- Utilize PA Department of Agriculture contacts with members of major livestock/farm organizations to secure cooperation in nutrient management program implementation.
- Provide pre-certification training on regulations.
- Support the commission in all enforcement activities not resulting from violations of the Clean Streams Law.

PDA's Secondary Support Responsibilities of the State Conservation Commission's Nutrient Management Program

- Assist with development and implementation of delegation agreement and administrative manual.
- Assist DEP staff on joint program evaluation of conservation districts with delegation agreements and nutrient management.

STATEMENT OF POLICY FOR THE NUTRIENT MANAGEMENT FUNDING PROGRAM

APPENDIX II

**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

Appendix II – Statement of Policy

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:
 - (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

Appendix II – Statement of Policy

administrative fund disbursements.

- (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 AGREEMENTS

APPENDIX III

**AGREEMENT FOR DELEGATION OF
ADMINISTRATIVE RESPONSIBILITIES
IN THE PENNSYLVANIA
NUTRIENT MANAGEMENT PROGRAM
AND
MANURE MANAGEMENT PROGRAM**

THIS AGREEMENT made this _____ day of _____, 2___ by and between the State Conservation Commission ("Commission"), the Department of Environmental Protection ("Department") and the _____ County Conservation District ("District"), provides for the District to be the Commission's designee for the administration of Pennsylvania's Nutrient Management Program ("Act 38 Program"), and public notice and coordination requirements for Concentrated Animal Feeding Operations ("CAFOs"), under the Pennsylvania Clean Streams Law and provides for the District to be the Department's designee for the administration of Pennsylvania's Manure Management Program ("Chapter 91 Program"), within the political boundaries of _____ County according to the terms contained herein, Attachments "A", "B", "C", "D", & "E" and with the concurrence of the _____ County governing body.

THE ACT 38 PROGRAM implements the nutrient management regulations at 25 Pa. Code, Chapter 83 as authorized by 3 Pa. C.S. 501 et seq. ("Act 38"), which includes provisions for nutrient and odor management, the Pennsylvania Clean Streams Law (35 P.S. 691.1 et seq. and the Conservation District Law, 3 P.S. 849 et seq., and

THE 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, 1920-A of the Administrative Code of 1929, 71 P.S. § 510-20, and the Conservation District Law, 3 P.S. 849 et seq., and

WHEREAS, Section 850 of the Conservation District Law declares the policy of the Commonwealth to be to provide for the conservation of soil, water, and related resources of the Commonwealth, and

WHEREAS, pursuant to the Section 504 (9) of Act 38 the Commission is authorized to delegate "administration or enforcement authority, or both, under this act to county conservation districts that have an adequate program and sufficient resources" for program implementation, and

WHEREAS, Section 859 (2) of the Conservation District Law authorizes the delegation of regulatory and enforcement functions to Districts, and

WHEREAS, the program and policies of the _____ County Conservation District are acceptable to the Commission, and

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) effective when adopted by the Commission, and

WHEREAS, such programs and policies provide for the execution of this agreement for the delegation by and between the _____ County Conservation District and the Commission for the accomplishment of work by conducting District activities and completing required output measures as described in Level(s) 1 and 2, Attachment "A" attached hereto.

Appendix III – Delegation Agreements

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:

- a. The Commission and the Department agree to delegate to the District certain responsibilities, and the District agrees to accept delegation from the Commission and the Department of those responsibilities, for program implementation in accordance with all applicable state statutes, rules, regulations, and Attachment "A" requirements.
- b. Prior written approval must be obtained from the Commission and the Department for changes or additions to the work elements of this agreement.
- c. Liability will fall where it does by law against the responsible party provided, however, that with respect to the performance of any duties or functions delegated to a conservation district by the Commission pursuant to Section 859(2) of the Conservation District Law and Section 504 (9) of Act 38 the Commonwealth will defend and indemnify District directors and associate District directors and District employees 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. The Commission, with the assistance of its legal counsel, will provide advice to conservation districts on legal issues that arise through their actions in administering the programs.
- d. The District shall comply with the terms and conditions of Attachment "B" "Nondiscrimination/Sexual Harassment Clause" and Attachment "C" "Provisions for Commonwealth Contracts", attached to this agreement.
- e. When the terms and conditions of the agreement are not materially being met, the Commission and the Department 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 and the Department or until the agreement is terminated.
- f. This delegation agreement may be terminated by any of the signatory parties upon thirty (30) days written notice to the other party. Within 10 days of such termination, the District shall release to the Commission and the Department all files, records, and unspent funds pertaining to this agreement.
- g. The Commission and the Department 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.
- h. No District Director, District employee, Commission member, or staff of the Commission or the Department is permitted to obtain financial benefits for himself/herself, a member of his/her family, or a business with which he/she is 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 Administrative Manual and is in accordance with applicable law.

2. SPECIAL CONDITIONS:

- a. Duties and responsibilities of the _____ County Conservation District.

Appendix III – Delegation Agreements

- (1) Staff - The District, upon entering this agreement for Level(s) 1 and 2 shall employ or retain the personnel as identified in Attachment "D" which are necessary to carry out the District's responsibilities as specified in this agreement. These District staff persons, for purposes necessary to carry out the District's responsibilities under the Act 38 Program, shall have, or obtain, the appropriate certification to allow the District to carry out its responsibilities as specified in this agreement. If the employment status or job responsibilities of the staff designated in Attachment "D" change so that they no longer are servicing the programs, the District will, without delay, take all necessary actions to fill the vacant position.
 - (2) Administration - The District will perform all administrative functions in accordance with the accepted level of delegation in conformance with the Administrative Manual for the Act 38 Program distributed by the Commission and in accordance with polices and guidance for the Chapter 91 Program provided by the Department..
 - (3) As directed by the Commission and the Department, the District will approve and implement appropriate written polices 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 Commission will provide sample policies for the District to consider in their efforts to develop these guidance documents.
 - (4) The District will provide consultative assistance to the Commission, and shall make available to the Commission all pertinent files and records, pertaining to appeals and enforcement cases that the Commission is administering within the county.
 - (5) The District will follow the Commission's guidance on proper biosecurity measures when carrying out their activities under the Act 38 or Chapter 91 programs.
- b. Duties and responsibilities of the Commission relating to the Act 38 Program:
- (1) The Commission will provide technical oversight and training to the District.
 - (2) The Commission will provide an Administrative Manual to the District, which shall include hard copies of the required reporting forms, as well as computer files containing these standardized forms.
 - (3) The Commission will provide financial assistance to the District for execution of the duties and responsibilities described herein, according to the Guidelines for Administering the Nutrient Management Technical and Administrative Program.
 - (4) Commission Staff will be available to the District for consultation on matters relating to the program. Program information will be provided on a regular basis and in a timely fashion through Commission staff, and written program related correspondence or publications to assure adequate communications concerning program changes. The Commission shall provide for administrative, technical, and appropriate computer training to the District staff. Commission staff will be available, as resources permit, for District meetings and other circumstances where the District requests official Commission involvement.
 - (5) The Commission will assure an adequate enforcement program is in place

Appendix III – Delegation Agreements

to process enforcement actions that the District transmits to the Commission.

- (6) The Commission shall provide to the District those informational materials developed for the program, to assist the District in informing the interested public.
 - (7) The Commission shall work with the appropriate agencies/organizations to develop a model local ordinance to assist local municipalities in the coordination of local nutrient management efforts.
 - (8) The Commission shall be responsible to perform those duties required by the Act 38, not delegated to the District.
- c. Duties and responsibilities of the Department relating to delegated District duties under § 91.36:
- (1) The DEP will provide technical oversight and training to the District for execution of the duties and responsibilities described in Attachment A.
 - (2) The DEP will provide financial assistance to the District for execution of the duties and responsibilities described in Attachment A.
 - (3) DEP Staff will be available to the District for consultation on matters relating to the program.
 - (4) The DEP shall provide to the District those informational materials developed for the program to assist the District in informing the interested public.
 - (5) The DEP shall be responsible to perform enforcement under § 91.36 for non-compliant operations.
- d. It is mutually agreed that:
- (1) The District, the Department and Commission Staff shall meet at the request of either party to discuss the progress of work under this agreement and any problems pertinent to it.
 - (2) The District, the Department or the Commission shall immediately notify any signatory parties in writing of any unusual development or circumstance which could significantly change or otherwise affect the responsibilities outlined in this agreement.
 - (3) Upon full execution of this agreement, delegation work (a) may, at the discretion of the Commission and the Department, be reimbursed from July 1, 2012 through the date of full execution and (b) shall be paid from the date of full execution through June 30, 2017 (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.f. above.
- e. Payment provisions.
- (1) An application for available funds shall be in writing on forms approved by the Commission and the Department. The application shall be received by the deadline established by the Commission and the Department. The application shall also include a budget outlining anticipated expenses.
 - (2) The approved application and budget for the first agreement year is attached to and made part of this agreement as Attachment "E".

Appendix III – Delegation Agreements

Applications and budgets for subsequent contract years shall be submitted by the District for the review and approval by the Commission and the Department without the need to amend this agreement.

- (3) Claims for reimbursement and associated quarterly reports must be submitted to the Commission 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.
- (4) The Commission and the Department will suspend claim processing until receipt of required reports or the completion of all conditions of the agreement.
- (5) 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 an amendment to this agreement.

f. Advance Payments

- (1) Advance payments may be requested in accordance with procedures set forth in the statement of policy for the Nutrient Management Funding Program (25 Pa. Code, Chapter 83, Subchapter E).
- (2) All requests for advance payments shall be made on forms approved by the Commission.
- (3) Advance payments to cover expenses for the first quarter of each year may be requested of the Commission. Advance payments will be based on demonstrated need in accordance with the Commission approved district budget submitted with the application.
- (4) 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 Nutrient Management 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.
- (5) Requests for advance payments to cover expenses for the first quarter of each year must be submitted to the Commission by January 15, or as established by the Commission.
- (6) Claims may be filed for reimbursement for the first and second quarter. Claims must be submitted to the Commission within fifteen (15) days of the end of the quarter.
- (7) Expenses for the third quarter will 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.
- (8) The Commission will suspend advance payment processing until receipt of required reports or the completion of all conditions of the agreement.

Appendix III – Delegation Agreements

Signature Page

State Conservation Commission

X

Signature of Executive Secretary
State Conservation Commission

Department of Environmental Protection

X

Department of Environmental Protection

Conservation District

Conservation District

County

District Federal ID No.

X

Signature of the Secretary of the
Conservation District

X

Signature of the Chairman of the
Conservation District

State Contractual Approving Authorities

Approved as to legality and form:

X

Signature of Office of
Attorney General

X

Signature of Office of Chief Counsel
Department of Environmental Protection

I hereby certify funds in the amount of _____ are available under appropriation
7025812000 – 3533709000 - V14921000000 - 6600300 (CFDA# 66.466) _____
2009812000 – 3533709000 - V14921000000 - 6600400 _____
2009812000 – 3533709000 – 3537039001 - 6600400 _____

X

Comptroller

Doc. No. _____

ATTACHMENT “A”

PROGRAM OUTREACH – Level 1, and all other delegated districts:

(The “Program Outreach” sections of this document (“A” through “D”) shall pertain, as appropriate, to **all** delegated districts (Levels 1 and 2)

- A. The conservation district will encourage the voluntary and mandatory participation of those agricultural operations within their county as well as provide information to the public related to the Nutrient Management Program.**

REQUIRED OUTPUT MEASURES:

1. The District will coordinate nutrient management education and outreach activities with other relevant cooperating agencies and organizations in the county. This coordination of nutrient management education and outreach activities may take place at an annual district planning meeting or other special meeting which would include the local PSU Cooperative Extension staff, NRCS, FSA, and other relevant agricultural agency/organization representatives. This coordination may also 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 cooperate with other appropriate agencies and/or other conservation districts to sponsor or participate in a minimum of two informational and/or educational programs per calendar year (this could take place through local “crop days”, “dairy days”, etc.). These programs are to provide information relating to the program criteria established in Act 38 and the regulations, and the incentives provided to support and encourage program participation (both Concentrated Animal Operations (CAOs) and volunteers). 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, presentations, TV and radio public announcements, etc.). These efforts are to provide appropriate information to individuals that operate animal operations, certified Nutrient Management Specialists developing plans in your area, and the general public.
4. The District will provide information to interested persons on Act 38 financial assistance programs supporting nutrient management plan development and implementation and advise farmers of alternative funding sources for nutrient management plan implementation.
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 individuals. The district will retain on file a copy of the animal density status for all of those farmers that they identified as potential CAOs that they evaluate after the effective date of this agreement. The district will assist these operators, when requested, in determining their animal density status. When potential CAOs do not respond to these district outreach efforts, the Level 1 district will inform the SCC Regional Nutrient

Appendix III – Delegation Agreements

Management Coordinator to look into the situation further. For situations where Level 2 Districts cannot obtain cooperation from potential CAOs or those determined to be CAOs, these districts will carry out the provisions of the Commission's enforcement strategy as described in item "H" below.

B. The conservation district will assist farm operators and Nutrient Management Specialists with implementing the provisions of the Nutrient Management regulations.

REQUIRED OUTPUT MEASURES:

1. The District will provide assistance to farmers and private sector Nutrient Management Specialists working in the county. This will include providing available preprinted resource materials (e.g. soils maps, manure management manuals, fact sheets, etc.) to all Nutrient Management Specialists requesting information to develop a plan within the county.
2. Level 1 districts will forward all nutrient management technical assistance requests not to be handled by the district staff, to the appropriate agencies for action or follow-up. Level 2 districts will provide technical assistance as described in item "F" below.
3. The District will assist operators of animal operations in determining if they meet the mandatory provisions of Act 38.

C. This item "C" pertains to Level 1 districts only (requirements regarding these issues for Level 2 and Associate Districts are contained under the "Program Compliance" section of this document). Level 1 districts will process plans and plan amendments submitted for review within its county, as well as provide processing of needed data and information.

REQUIRED OUTPUT MEASURES:

1. The District will record the receipt of nutrient management plans, plan amendments, plan transfers, manure storage setback waivers and implementation delays submitted for approval by operations within its county. The District will transmit, within 10 working days of receipt, these submitted documents, along with any comments the District would have concerning the submitted documents, to the Commission for review and approval.
2. The Commission will inform those submitting documents for approval of its decision to approve/disapprove the submission. A copy of this correspondence will be sent to the District for the District files. The Commission will transmit to those operators where they (the Commission) have approved the plan an initial packet of the information and forms these approved operators will need to meet the requirements of Act 38.
3. The District will maintain a file on each nutrient management plan and plan amendment submitted for review and approval within its jurisdiction.
4. Nutrient management plans for agricultural operations identified as a Concentrated Animal Feeding Operations (CAFOs), under the DEP CAFO program, received by the district having only Level 1 delegation shall be

Appendix III – Delegation Agreements

forwarded to the Commission following procedures in paragraph C1 above. Receipt of nutrient management plans for CAFOs shall be published in the Pa Bulletin, by the Commission, following Act 38 program guidance.

5. The District will file plan implementation information submitted by operators with approved plans. These records include Manure Transfer Sheets, Annual Summaries of Manure Transfers and designs developed for BMP implementation.

D. The conservation district is to provide the Commission with the appropriate reports to document efforts planned or completed in the programs.

REQUIRED OUTPUT MEASURES:

1. The District will provide the Commission with quarterly reports that list, as a minimum: number of meetings held, number of people trained, number of educational efforts completed, and number of CAO and volunteer plans received. Reports will be submitted on forms supplied by the Commission.

PROGRAM COMPLIANCE – Level 2 Delegated Districts:

(The following “Program Compliance” sections of this document (“E” through “L”) shall pertain only to Level 2 delegated conservation districts. These Level 2 districts shall perform **all duties under appropriate “Program Outreach” sections “A”, “B” and “D” including all activities described in “Program Compliance” sections “E” through “N”.**

E. The conservation district shall provide the lead role in evaluating plans to assure they comply with the Nutrient Management regulations.

REQUIRED OUTPUT MEASURES:

1. The District will review and approve/disapprove submitted nutrient management plans, plan amendments and transfers in accordance with those procedures outlined in the Nutrient Management regulations, the Administrative Manual, the PA Nutrient Management Act Technical Manual and policies and guidelines established by the Commission.
 - a. In relation to reviewing owned and rented lands included in a nutrient management plan, the district will perform a site visit 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 Nutrient Balance Sheets (NBSs) submitted as part of a nutrient management plan, 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 NBS. In performing this assessment, the district should minimize any imposition on the importing operator.

Appendix III – Delegation Agreements

- c. The District Nutrient Management Specialist will coordinate their nutrient management plan review effort with district staff involved with the Chapter 102 program, to verify that the operation under review has a current Agricultural Erosion and Sedimentation Control Plan under Chapter 102.4(a) in accordance with the Act 38 time frame provided for this requirement
 - d. Where a plan is submitted for Act 38 review and approval, and that plan will also be used to meet the NRCS 590 standard or the DEP CAFO program requirements, the district will notify other relevant agencies of their review effort and coordinate their review with that agency.
 - e. Where a nutrient management plan for an agricultural operation identified as CAFO is received by the district, the district shall publish, in the Pa Bulletin, the receipt of the nutrient management plan following Act 38 program guidance. The district will cooperate with the Pennsylvania Department of Environmental Protection in the review of those plans.
2. Plans and plan amendments developed by conservation district 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 others' plans. Such reciprocal arrangements will be submitted in writing to the Commission for its records. 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 plan implementation information submitted as supplements to approved plans, to assess compliance with the approved plans and the regulations. The District shall perform on-site visits to 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 Pa. Department of Agriculture, the names of those specialists meeting the criteria established for nutrient management specialist certification revocation. The District will also submit to the Pa. Department of Agriculture (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 Level 2 activities performed during the report period. Reports will be submitted on forms supplied by the Commission and according to the schedule approved by the Commission.

- F. 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 Guidelines For Providing Technical Assistance, the District will, to the extent possible, provide technical direction or assistance to private sector specialists and farmers in the development of nutrient management plans or portions of nutrient management plans.
 - a. The Administrative Manual section labeled Guidelines For Providing Technical Assistance, describes the policy concerning the District's limited involvement in writing nutrient management plans, and the Commission's strong direction to Districts to assist the certified farmers and private sector specialists 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.
 - i. 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. Plan development activities may be provided if 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 of the Attachment.
 - b. The conservation district will complete an animal equivalent unit (AEU)/acre calculation sheet for any individual requesting that the district write their plan. This calculation sheet will be signed by the farmer 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 to all applicable farmers who request the district to write their plan, indicating that the district may not be able to address their request for some time and they are recommended to utilize the services of a private sector specialist or become certified to develop their own plan. A listing of available commercially certified private sector specialists should be provided with this correspondence.
2. To assist in nutrient management plan implementation, the District will provide or facilitate, as resources allow, general technical assistance to program participants with approved nutrient management plans. 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 Pa. professional engineering certification. Where District staff does not hold appropriate

Appendix III – Delegation Agreements

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 Item 2 above for the Agriculture Linked Investment Program (AgriLink) and the Nutrient Management Plan Implementation Grant Program (Grant Program) where funding for implementation of financial assistance programs is available to the Commission.
 - a) When an applicant is receiving funding under the AgriLink Program or the Grant Program and has requested the assistance of the District, the District will provide or facilitate technical assistance, as resources allow, in project design, development and/or review of project costs. This assistance may also include installation and monitoring of the project.
 - b) Except for those projects utilizing private sector engineers, the District will provide or facilitate technical assistance in the certification of approved projects receiving funding under the AgriLink Program or the Grant Program, where resources are available.

G. The conservation district will perform status reviews on Concentrated Animal Operations, financial assistance recipients, and Volunteers with approved Act 38 plans to assess plan implementation efforts.

REQUIRED OUTPUT MEASURES:

1. The District will assess nutrient management plan implementation by performing annual on-site status reviews on all concentrated animal operations with approved plans. All CAOs 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 and inspected by DEP, a DEP inspection will fulfill this requirement. Districts are encouraged to coordinate joint inspections with DEP to efficiently utilize program resources.
3. The District shall perform on-site status reviews on operations receiving Nutrient Management (NM) Grant funds or AgriLink funds, at least once every 2 years.
4. The District shall assist CAOs and operations receiving Grant Program or AgriLink funds and determined to be out of compliance based on an on-site status review, to implement the 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.
5. The District shall perform status reviews on volunteer (non-CAO, and non-NM Grant or AgriLink recipient) operations with approved nutrient management plans

Appendix III – Delegation Agreements

at least once every 3 years. These site visits should be structured as informal education visits to educate the farmer on the advantages of implementing the plan.

6. As part of the status review for an operation the District will assess an operator's implementation of the Operation and Maintenance plan for the BMPs included in the approved nutrient management plan.

H. 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 these problem areas into compliance.

REQUIRED OUTPUT MEASURES:

1. Within 10 business days of receipt of a complaint, the conservation 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 problem 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 Rules and Regulations, to obtain voluntary compliance with these provisions as specified in the Administrative Manual. The District shall record any contact with these operators to document attempts to bring such situations into compliance.
3. For sites involving continued violations, the District will use the criteria established by the Commission for documentation and preparation of enforcement actions. These operations where compliance cannot be obtained by the District are to be reported to the Commission for further action. All actions, reports and other forms of documentation including personal observations can be used as evidence during any subsequent enforcement actions by the Commission.
4. The District will provide the Commission with quarterly reports detailing accomplishments under this level agreement that list as a minimum: number of complaints, and the number and status of complaint related site visits. Reports will be submitted on forms supplied by the Commission.
5. 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 assuring 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.

I. The conservation district will be the lead agency in reviewing proposed plan implementation extensions.

REQUIRED OUTPUT MEASURES:

Appendix III – Delegation Agreements

1. The District will acknowledge receipt of proposed extensions to the implementation schedule of approved nutrient management plans through written correspondence to the operator, within five working days of receipt.
2. The District will evaluate the proposed extensions and determine if they are acceptable based on the 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.

J. 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 five working 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 working 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 of the proposed waiver within 60 calendar days of receipt of the request.
5. The District will inform the operator requesting the waiver, of its decision to approve/disapprove the request, within 65 calendar days of receipt of the request.

K. The conservation district will be involved in the monitoring of 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 Pa. Department of Agriculture (PDA) to assure that those operations falling under the Act 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 plan amendments developed due to unforeseen circumstances in accordance with the Administrative Manual.

L. The 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:

Appendix III – Delegation Agreements

1. Each signatory District to the agreement will provide administrative assistance for the Plan Development Incentives Program. Districts will be compensated for activities completed according to rates established by the Commission.
 - a) The District will make available and receive applications for the program on an ongoing basis.
 - b) The District will review applications for completeness, determine the eligibility of the applicant, approve or disapprove applications for program funds and determine the appropriate level of funding for approved applicants according to guidelines established by the Commission.
 - c) The District will process appropriate requests for funding and cost share payments due to the applicant and submit the requests to the Commission or cooperating agency administering fund disbursement.
2. The District will provide administrative assistance to interested farmers for the Agriculture Linked Investment Program (AgriLink). The District will provide interested persons with necessary program information or forms provided by the Commission. Districts will be compensated for activities completed according to rates established by the Commission.
 - a) Appropriate District staff will evaluate and concur by signature, on the proposed project costs provided by the applicant on the ‘Statement of Concurrence of Project Costs’, a part of the AgriLink loan application package.
 - b) The District will provide any available additional information requested by the applicant or lending institution for a complete application package under the AgriLink Program.
3. The District will provide administrative assistance, to interested farmers, for the Nutrient Management Plan Implementation Grant Program (Grant Program). The District will provide interested persons with necessary program information or application forms provided by the Commission. Districts will be compensated for activities completed according to rates established by the Commission.
 - a) The District will complete the following Grant Program application forms or required portions of those forms requiring District input according to the guidelines of the Grant Program at the request of the applicant.
 - i) ‘*Verification of Approved Nutrient Management Plan and Best Management Practices*’
 - ii) ‘*Verification of Other Funds Available*’
 - iii) ‘*Statement of Proposed Project Cost*’. The District must complete a portion of this form only when the District has developed the project designs and costs. If a private engineer or USDA NRCS staff person develops the project design and costs, they will be responsible for completing this form.
 - b) The District may assist, as their resources permit, interested farmers with completion of the remaining sections of the Grant Program applications, when requested, under the following conditions:

Appendix III – Delegation Agreements

- i) This activity is to be a low priority under the delegation.
 - ii) Districts are strongly discouraged from actually completing and/or mailing/delivering the application form for the farmer. They may, as their resources permit, provide necessary clarification concerning information requests within the application, to assist farmers in their efforts to complete the application.
 - iii) Districts are not to assist with the financial analysis section of the application. Farmers are directed to work with a financial consultant as they complete that section of the application
4. The District will provide the necessary reports on quarterly activities for financial assistance programs including the number of farmers assisted with financial assistance applications and the number of PDIP applications processed by the district.
 5. The District will advise applicants of alternative funding sources for project implementation.

M. The conservation district will provide limited assistance to the Pennsylvania Department of Agriculture in the implementation of the Act 49 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 with their regular office hours, and only if the district has staff and room availability to provide this service. All testing materials will be provided by the Pa Department of Agriculture.
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/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 continually in violation of certification requirements established under Act 49, the district will contact the Pa Department of Agriculture to address the issue.
 - c. The District will submit to the Pa. Department of Agriculture any supporting documentation that verifies the basis for submitting these names.

N. The conservation district will provide assistance to the Pennsylvania Department of Environmental Protection in the implementation of the Manure Management Program under Chapter 91, Section 36 of the Clean Streams Law.

REQUIRED OUTPUT MEASURES:

Appendix III – Delegation Agreements

1. Overall program development efforts - The District will develop AND ADOPT a manure management outreach, education & training, and compliance implementation strategy that covers the following:
 - a. Identification of assistance efforts the district 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.
 - b. Identification and prioritization of types of farming operations the district will support with manure management plan **development** and **implementation** assistance efforts and services.
 - c. A written fee schedule, if appropriate, that will be charged for Chapter 91.36 services performed by the district.
 - d. Coordination of Chapter 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 Department.
2. Outreach – The District will take the lead role in the coordination of outreach activities providing general awareness on Chapter 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 etc.).
 - b. Activities will include distribution of materials developed by the district, the Department 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 requirements under Chapter 91.36 to the agriculture community.
 - a. Activities must include a minimum of 2 education activities per calendar year (e.g. farmer meetings or workshops etc.).
 - b. Activities will include distribution of materials developed by the district, the Department or other cooperating agencies or organizations.
4. Training – The District 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.
 - a. 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.
 - b. The District will conduct technical training programs for consultants assisting farmers in the development of manure management plans or providing planning

Appendix III – Delegation Agreements

services to farmers for manure management plan development. The implementation of this activity may be coordinated with technical trainings for farmers.

5. Planning and implementation assistance.

- a. 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.
- b. 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.
- c. The District may provide full plan development for farmers consistent with the district's manure management program strategy and priorities, as resources permit.
- d. The District may perform quality assurance 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 permit.

6. Complaint Response and referral

- a. Within 10 business days of receipt of a complaint, the conservation 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 Chapter 91.36 activities, the District will schedule and make a site visit to assess the problem in cooperation with other appropriate agencies or organizations. Complaints and site visits will be documented on forms provided by the Department, 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 Chapter 91.36 rules and regulations, to obtain compliance with these provisions as specified in guidance provided by the Department. The District shall record any contact with agricultural operators to document attempts to bring such situations into compliance.
 - c. Agricultural operations involving continued violations and where compliance cannot be obtained by the District are to be reported to the Department for further action. The District will use the criteria established by the Department for documentation and preparation of enforcement actions. All actions, reports and other forms of documentation including personal observations can be used as evidence during any subsequent enforcement actions by the Department.
7. The District will provide the Department with quarterly reports detailing accomplishments under this delegation agreement that includes, outreach and educational efforts completed, trainings and workshop provided to farmers and consultants, technical assistance activities provided to farmers, the number of complaints, and the number and status of complaint related site visits. Reports will be submitted on forms supplied by the Department.

ATTACHMENT “B”

Rev. 8/10

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

A. If this contract is a grant agreement,

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, by reason of gender, race, creed, or color, discriminate 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 against or intimidate any of its employees on account of gender, race, creed, or color.
3. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of gender, race, creed, or color against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Grantee, any subgrantee, any contractor or any subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the granting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within thirty (30) days after award of any grant, the Grantee shall be required to complete, sign and submit Form STD-21, the “Initial Contract Compliance Data” form. Grantees who have fewer than five employees or whose employees are all from the same family or who have completed the STD-21 form within the past 12 months may, within 15 days, request an exemption from the STD-21 form from the granting agency.
6. 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.
7. 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.

ATTACHMENT “C”

PROVISIONS FOR COMMONWEALTH CONTRACTS

CONTRACTOR INTEGRITY PROVISIONS

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 procurement process.

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 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 Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.; the State Adverse Interest Act, 71 P.S. §776.1 et seq.; and the Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq., or to breach any other state or federal law or regulation.
4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.
8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, 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.

Appendix III – Delegation Agreements

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
 - a. Approved in writing by the Commonwealth prior to its disclosure; or
 - b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
 - c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
 - d. Necessary for purposes of Contractor's internal assessment and review; or
 - e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
 - f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
 - g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:
 - a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
 - b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
 1. obtaining;
 2. attempting to obtain; or
 3. performing a public contract or subcontract

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

Appendix III – Delegation Agreements

- c. Violation of federal or state antitrust statutes.
- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the Act of June 2, 1915 (P.L.736, No. 338), known as the Workers' Compensation Act, 77 P.S. 1 et seq.
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or department of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the Pennsylvania Election Code) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
- a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
 - b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq., and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.
13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these 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 Commonwealth Inspector General in writing.
14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the

Appendix III – Delegation Agreements

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.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of 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 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 refers to or concern this contract.
16. 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 any one 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.
17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.
 - a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
 - b. "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 pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
 - c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
 - d. "Financial interest" means:
 1. Ownership of more than a five percent interest in any business; or
 2. Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - e. "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.

Appendix III – Delegation Agreements

- f. “Immediate family” means a spouse and any unemancipated child.
- g. “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.
- h. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

OFFSET PROVISION

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

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 subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- a. The Contractor must certify, in writing, for itself and all its subcontractors, as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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 the bid/proposal, a written explanation of why such certification cannot be made.
- b. The Contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- 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 contracting agency 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 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 contracting agency 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 Inspector General for investigations of the Contractor’s compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to,

Appendix III – Delegation Agreements

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 which do not result in the Contractor's suspension or debarment.

- f. The Contractor may obtain the current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone Number: (717) 783-6472
FAX Number: (717) 787-9138

THE AMERICANS WITH DISABILITIES ACT

- 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 and executing 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 the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

RIGHT TO KNOW LAW

I. If this contract is a grant agreement:

- a. Grantee or Subgrantee understands that this Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 ("RTKL"). For the purpose of these provisions, the term "the Commonwealth" shall refer to the granting Commonwealth Agency.
- b. If the Commonwealth needs the Grantee's or Subgrantees assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, 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 Grantee's or Subgrantees assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee's or Subgrantees possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), Grantee or Subgrantee 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 Grantee's or Subgrantees possession arising out of this Grant Agreement that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

Appendix III – Delegation Agreements

- 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Grant Agreement.
- d. If the Grantee or Subgrantee 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 Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by the representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL.
 - e. The Commonwealth will rely upon the written statement from Grantee or Subgrantee 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, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
 - f. If Grantee or Subgrantee fails to provide the Requested Information within the time period required by these provisions, Grantee or Subgrantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantees failure, including any statutory damages assessed against the Commonwealth.
 - g. The Commonwealth will reimburse Grantee or Subgrantee 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. Grantee or Subgrantee 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, Grantee or Subgrantee 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 Grantee's or Subgrantees failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, Grantee or Subgrantee 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 Grantee's or Subgrantees duties relating to the RTKL are continuing duties that survive the expiration of this Grant Agreement and shall continue as long as the Grantee or Subgrantee has Requested Information in its possession.

II. If this contract is a lease agreement:

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 ("RTKL") applies to this Lease. For the purpose of these provisions, the term "Commonwealth" shall refer to the Department of General Services or the tenant Commonwealth agency.
- b. If the Commonwealth needs the Lessor's assistance in any matter arising out of the RTKL related to this Lease, it shall notify the Lessor using the legal contact information provided in this Lease. The Lessor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

Appendix III – Delegation Agreements

- c. Upon written notification from the Commonwealth that it requires the Lessor's assistance in responding to a request under the RTKL for information related to this Lease that may be in the Lessor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information") the Lessor 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 Lessor's possession arising out of this Lease 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 Lease.
- d. If the Lessor 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 Lessor considers exempt from production under the RTKL, the Lessor 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 Lessor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Lessor 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 Lessor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Lessor fails to provide the Requested Information within the time period required by these provisions, the Lessor 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 Lessor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Lessor for any costs associated with complying with these provisions only to the extent allowed under that fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Lessor 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 Lessor 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 Lessor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Lessor 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. Lessor's duties relating to the RTKL are continuing duties that survive the expiration of this Lease and shall continue as long as the Lessor has Requested Information in its possession.

III If this contract is other than a grant 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 "Commonwealth" shall refer to the contracting Commonwealth agency.

Appendix III – Delegation Agreements

- 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 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 the Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this

Appendix III – Delegation Agreements

Contract and shall continue as long as the Contractor has Requested Information in its possession.

PENNSYLVANIA ELECTRONIC PAYMENT PROGRAM (PEPP):

I. For Procurement Contracts

- a. The Commonwealth will make contract payments through the Automated Clearing House (ACH) Network. Within 10 days of award of the contract or purchase order, the Contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).
- b. Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Contractor to properly apply the Department's payment to the invoice submitted.
- c. It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
- d. Contractor may enroll for PEPP at: <http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf>

II. For Grant Contracts:

- a. The Commonwealth will make payments to the Grantee through the Automated Clearing House (ACH) Network. Within 10 days of the grant award, the Grantee must submit or must have already submitted its ACH information to the Commonwealth's Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street - 9th Floor, Harrisburg, PA 17101
- b. The Grantee must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Grantee to properly apply the Department's payment to the respective invoice or program.
- c. It is the responsibility of the Grantee to ensure that the ACH information contained in the Commonwealth's central vendor master file is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
- d. Grantee may enroll for PEPP at: <http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf>

Appendix III – Delegation Agreements

ATTACHMENT "D"

Staff resources of the county conservation district to be committed to completion of all Nutrient 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 "E"

Date: _____

**NUTRIENT MANAGEMENT and MANURE MANAGEMENT PROGRAM
DELEGATION AGREEMENT
PROPOSAL FORM**

CONSERVATION DISTRICT

I. Delegation Option: Level 2

_____ 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, 2012 to June 30, 2013

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 and 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)

Appendix III – Delegation Agreements

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 (use multiple lines or sheets if necessary)	Salary and Benefits Amount Funded

(Use additional page(s) if necessary)

IV. Narrative Description of the Proposal

(Add or modify the description if necessary)

We agree to carry out Level 2 responsibilities relating to the Nutrient and Manure Management Programs and regulations in accordance with the conditions and duties as described in the delegation agreement, and appropriate guidelines in the Administrative Manual and the Manure Management Program in accordance with conditions and duties described in the delegation agreement and guidance provided by 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)

Appendix III – Delegation Agreements

VI. Authorization

Action was taken by the _____ District Board on _____
to approve this proposal.

Representative of the Conservation District

Name (type or print) _____

Signature _____

Title _____

BUDGET WORKSHEET

FOR

July 1, 2012 - June 30, 2013

DISTRICT _____

Salaries \$ _____

Benefits \$ _____

Travel Costs \$ _____

Equipment Costs \$ _____

Administrative Costs

_____ County \$ _____
_____ County \$ _____
_____ County \$ _____
_____ County \$ _____
_____ County \$ _____

Administrative Subtotal

\$ _____

Other/Miscellaneous (list budget items from approved categories)

_____ \$ _____
_____ \$ _____

Budget Total (transfer this total figure to the Budget Sheet page) \$ _____

Appendix III – Delegation Agreements

NUTRIENT MANAGEMENT (ACT 38) and MANURE MANAGEMENT (25 Pa. Code § 91.36) PROGRAM DELEGATION AGREEMENT BUDGET SHEET

FOR

Fiscal Year: July 1, 2012 - June 30, 2013

CONSERVATION DISTRICT: _____

Delegation Agreement Budget Request \$ _____

Appendix III – Delegation Agreements

**A MULTI-COUNTY
AGREEMENT FOR DELEGATION OF
ADMINISTRATIVE RESPONSIBILITIES
IN THE PENNSYLVANIA
NUTRIENT MANAGEMENT PROGRAM
AND
MANURE MANAGEMENT PROGRAM**

THIS AGREEMENT made this _____ day of _____, 2___ by and between the State Conservation Commission ("Commission"), the Department of Environmental Protection ("Department") and the following County Conservation Districts:

- _____ County Conservation District,

collectively called the "Districts", provides for the Districts to be the Commission's designees for the administration of Pennsylvania's Nutrient Management Program ("Act 38 Program"), and public notice and coordination requirements for Concentrated Animal Feeding Operations ("CAFOs"), under the Pennsylvania Clean Streams Law and provides for the District to be the Department's designee for the administration of Pennsylvania's Manure Management Program ("Chapter 91 Program"), within the political boundaries of following counties:

- _____ County
- _____ County
- _____ County
- _____ County

according to the terms contained herein, Attachments "MA", "B", "C", "D", & "E" and with the concurrence of the County governing bodies:

- _____ County
- _____ County
- _____ County
- _____ County

The lead County Conservation District for this agreement will be the _____ County Conservation District, hereinafter called the "Host District", the remaining County Conservation Districts covered under this agreement will be called the "Associate Districts".

THE ACT 38 PROGRAM implements the nutrient management regulations at 25 Pa. Code, Chapter 83 as authorized by 3 Pa. C.S. §§501 et seq. ("Act 38"), which includes provisions for nutrient and odor management, the Pennsylvania Clean Streams Law (35 P.S. §§691.1 et seq. and the Conservation District Law, 3 P.S. §§849 et seq., and

THE 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, 1920-A of the

Appendix III – Delegation Agreements

Administrative Code of 1929, 71 P.S. § 510-20, and the Conservation District Law, 3 P.S. §§849 et seq., and

WHEREAS, Section 850 of the Conservation District Law declares the policy of the Commonwealth to be to provide for the conservation of soil, water, and related resources of the Commonwealth, and

WHEREAS, pursuant to the Section 504 (9) of Act 38 the Commission is authorized to delegate "administration or enforcement authority, or both, under this act to county conservation districts that have an adequate program and sufficient resources" for program implementation, and

WHEREAS, Section 859 (2) of the Conservation District Law authorizes the delegation of regulatory and enforcement functions to Districts, and

WHEREAS, the program and policies of the following County Conservation Districts are acceptable to the Commission

_____ County Conservation District,
_____ County Conservation District,
_____ County Conservation District,
_____ County Conservation District,

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) effective when adopted by the Commission, and

WHEREAS, such programs and policies provide for the execution of this agreement for the delegation by and between the following County Conservation Districts:

_____ County Conservation District,
_____ County Conservation District,
_____ County Conservation District,
_____ County Conservation District,

and the Commission for the accomplishment of work by conducting District activities and completing required output measures as described in Levels 1 and 2, Attachment "MA" 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:

- a. The Commission and the Department agree to delegate to the Districts certain responsibilities, and the Districts agrees to accept delegation from the Commission and the Department of those responsibilities, for program implementation in accordance with all applicable state statutes, rules, regulations, and Attachment "MA" requirements.
- b. Prior written approval must be obtained from the Commission and the Department for changes or additions to the work elements of this agreement.
- c. Liability will fall where it does by law against the responsible party provided, however, that with respect to the performance of any duties or functions delegated to a conservation district by the Commission pursuant to Section 859(2) of the Conservation District Law and Section 504 (9) of Act 38 the Commonwealth will defend and indemnify District directors and associate District directors and District employees 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.

Appendix III – Delegation Agreements

The Commission, with the assistance of its legal counsel, will provide advice to conservation districts on legal issues that arise through their actions in administering the programs.

- d. The Districts shall comply with the terms and conditions of Attachment "B" "Nondiscrimination/Sexual Harassment Clause" and Attachment "C" "Provisions for Commonwealth Contracts", attached to this agreement.
- e. When the terms and conditions of the agreement are not materially being met, the Commission and the Department 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 and the Department or until the agreement is terminated.
- f. This delegation agreement may be terminated by any of the signatory parties upon thirty (30) days written notice to the other party. Within 10 days of such termination, the Host and Associate Districts shall release to the Commission and the Department all files, records, and unspent funds pertaining to this agreement.
- g. The Commission and the Department 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.
- h. No District Director, District employee, Commission member, or staff of the Commission or the Department is permitted to obtain financial benefits for himself/herself, a member of his/her family, or a business with which he/she is 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 Administrative Manual and is in accordance with applicable law.

2. SPECIAL CONDITIONS:

- a. Duties and responsibilities of the signatory Conservation Districts.
 - (1) Staff - The Host District, upon entering this agreement for Level(s) 1 and 2 shall employ or retain the personnel as identified in Attachment "D" which are necessary to carry out the Host District's responsibilities as specified in this agreement. These Host District staff persons, for purposes necessary to carry out the District's responsibilities under the Act 38 Program, shall have, or obtain, the appropriate certification to allow the Host District to carry out its responsibilities as specified in this agreement. If the employment status or job responsibilities of the staff designated in Attachment "D" change so that they no longer are servicing the programs, the Host District will, without delay, take all necessary actions to fill the vacant position.
 - (6) Administration - The Districts will perform all administrative functions in accordance with the accepted level of delegation in conformance with the Administrative Manual for the Act 38 Program distributed by the Commission and in accordance with policies and guidance for the Chapter 91 Program provided by the Department.
 - (7) Associate Districts will refer, within five working days of receipt, complaints related to the provisions of the Nutrient Management Act, and technical assistance requests that the district cannot or does not have the resources accomplish the request, to the Host District for appropriate action.

Appendix III – Delegation Agreements

- (8) The Host District will copy the appropriate Associate District on all correspondence dealing with agricultural operations within the respective associated county to which the Host District has provided services.
 - (9) As directed by the Commission and the Department, the Districts 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 Commission will provide sample policies for the Districts to consider in their efforts to develop these guidance documents.
 - (10) The Districts will provide consultative assistance to the Commission, and shall make available to the Commission all pertinent files and records, pertaining to appeals and enforcement cases that the Commission is administering within the county.
 - (11) The Districts will follow the Commission's guidance on proper biosecurity measures when carrying out their activities under the Act 38 or Chapter 91 programs.
- b. Duties and responsibilities of the Commission relating to the Act 38 Program:
- (1) The Commission will provide technical oversight and training to the Districts.
 - (2) The Commission will provide an Administrative Manual to the Districts, which shall include hard copies of the required reporting forms, as well as computer files containing these standardized forms.
 - (3) The Commission will provide financial assistance to the Districts for execution of the duties and responsibilities described herein, according to the Guidelines for Administering the Nutrient Management Technical and Administrative Program.
 - (4) Commission Staff will be available to the Districts for consultation on matters relating to the program. Program information will be provided on a regular basis and in a timely fashion through Commission staff, and written program related correspondence or publications to assure adequate communications concerning program changes. The Commission shall provide for administrative, technical, and appropriate computer training to the District staff. Commission staff will be available, as resources permit, for District meetings and other circumstances where the Districts requests official Commission involvement.
 - (5) The Commission will assure an adequate enforcement program is in place to process enforcement actions that the Host District transmits to the Commission.
 - (6) The Commission shall provide to the Districts those informational materials developed for the program, to assist the Districts in informing the interested public.
 - (7) The Commission shall work with the appropriate agencies/organizations to develop a model local ordinance to assist local municipalities in the coordination of local nutrient management efforts.
 - (8) The Commission shall be responsible to perform those duties required by the Act 38, not delegated to the Districts.
- c. Duties and responsibilities of the Department relating to delegated District duties under § 91.36:
- (1) The Department will provide technical oversight and training to the Districts for execution of the duties and responsibilities described in Attachment MA.

Appendix III – Delegation Agreements

- (2) The Department will provide financial assistance to the Districts for execution of the duties and responsibilities described in Attachment MA.
 - (3) Department Staff will be available to the Districts for consultation on matters relating to the program.
 - (4) The Department shall provide to the Districts those informational materials developed for the program to assist the Districts in informing the interested public.
 - (5) The Department shall be responsible to perform enforcement under § 91.36 for non-compliant operations.
- d. It is mutually agreed that:
- (1) The Districts, the Department and Commission Staff shall meet at the request of either party to discuss the progress of work under this agreement and any problems pertinent to it.
 - (2) The Districts, the Department or the Commission shall immediately notify any signatory parties in writing of any unusual development or circumstance which could significantly change or otherwise affect the responsibilities outlined in this agreement.
 - (3) Upon full execution of this agreement, delegation work (a) may, at the discretion of the Commission and the Department, be reimbursed from July 1, 2012 through the date of full execution and (b) shall be paid from the date of full execution through June 30, 2017 (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.f. above.
- e. Payment provisions.
- (1) An application for available funds shall be in writing on forms approved by the Commission and the Department. The application shall be received by the deadline established by the Commission and the Department. The application shall also include a budget outlining anticipated expenses.
 - (2) The approved application and budget for the first agreement year is attached to and made part of this agreement as Attachment "E". Applications and budgets for subsequent contract years shall be submitted by the Districts for the review and approval by the Commission and the Department without the need to amend this agreement.
 - (3) Claims for reimbursement and associated quarterly reports must be submitted to the Commission 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.
 - (4) The Commission and the Department will suspend claim processing until receipt of required reports or the completion of all conditions of the agreement.
 - (5) 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 an amendment to this agreement.

Appendix III – Delegation Agreements

- (6) Authority to receive payments for duties performed under this Agreement shall be determined by the “Associate Counties Memorandum of Agreement of Participation” which shall be attached to and made part of this agreement.
 - (7) If an Associate District retains payment authority, it shall receive payments for the performance of duties up to the amount of its annual block grant from the Commission. The associate districts(s) shall submit separate proposals and budgets that list planned expenses for each associate district. The proposals and budgets shall be approved by the Commission on a yearly basis. Payments will be made in accordance with each associate district’s budget attached and incorporated as Attachment E.
 - (8) The Host District shall receive payments for the performance of duties in accordance with the approved proposal and budget up to the total amount of annual block grant money authorized by the Associate District(s) for the Host District.
- f. Advance Payments
- (1) Advance payments may be requested in accordance with procedures set forth in the statement of policy for the Nutrient Management Funding Program (25 Pa. Code, Chapter 83, Subchapter E).
 - (2) All requests for advance payments shall be made on forms approved by the Commission.
 - (3) Advance payments to cover expenses for the first quarter of each year may be requested of the Commission. Advance payments will be based on demonstrated need in accordance with the Commission approved district budget submitted with the application.
 - (4) 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 Nutrient Management Fund, the Districts may use methods that are equal to the method used by the account holding the unspent program funds that follow generally accepted accounting principles.
 - (5) Requests for advance payments to cover expenses for the first quarter of each year must be submitted to the Commission by January 15, or as established by the Commission.
 - (6) Claims may be filed for reimbursement for the first and second quarter. Claims must be submitted to the Commission within fifteen (15) days of the end of the quarter.
 - (7) Expenses for the third quarter will 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.
 - (8) The Commission will suspend advance payment processing until receipt of required reports or the completion of all conditions of the agreement.

Appendix III – Delegation Agreements

Signature Page

State Conservation Commission / Department of Environmental Protection

X _____
Signature Executive Secretary,
State Conservation Commission

Signature Department of Environmental Protection

Conservation Districts

Host District (_____ County Conservation District)

X _____
Signature of Secretary

X _____
Signature of Chairperson, County
Conservation District

Associate District (_____ County Conservation District)

X _____
Signature of Secretary

X _____
Signature of Chairperson, County
Conservation District

Associate District (_____ County Conservation District)

X _____
Signature of Secretary

X _____
Signature of Chairperson, County
Conservation District

Associate District (_____ County Conservation District)

X _____
Signature of Secretary

X _____
Signature of Chairperson, County
Conservation District

State Contractual Approving Authorities

Approved as to legality and form:

X _____
Signature of Office of
Attorney General

X _____
Signature of Office of Chief Counsel
Department of Environmental Protection

I hereby certify funds in the amount of _____ are available under appropriation
7025812000 – 3533709000 - V14921000000 - 6600300 (CFDA# 66.466) _____
2009812000 – 3533709000 - V14921000000 - 6600400 _____
2009812000 – 3533709000 – 3537039001 - 6600400 _____

X _____
Comptroller

Doc. No. _____

ATTACHMENT "MA"

DUTIES OF THE HOST AND ASSOCIATE DISTRICTS

- A. The conservation districts will encourage the voluntary and mandatory participation of those agricultural operations within their county as well as provide information to the public related to the Nutrient Management Program.**

REQUIRED OUTPUT MEASURES:

1. The Districts will coordinate nutrient management education and outreach activities with other relevant cooperating agencies and organizations in the county. This coordination of nutrient management education and outreach activities may take place at an annual district planning meeting or other special meeting which would include the local PSU Cooperative Extension staff, NRCS, FSA, and other relevant agricultural agency/organization representatives. This coordination may also 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 Districts will cooperate with other appropriate agencies and/or other conservation districts to sponsor or participate in a minimum of two informational and/or educational programs per calendar year (this could take place through local “crop days”, “dairy days”, etc.). These programs are to provide information relating to the program criteria established in Act 38 and the regulations, and the incentives provided to support and encourage program participation (both Concentrated Animal Operations (CAOs) and volunteers). Joint programs will count as one program for each sponsoring district.
3. Separately or in cooperation with other agencies, the Districts will develop a minimum of three informal educational efforts per calendar year (e.g. newsletters, newspaper articles, presentations, TV and radio public announcements, etc.). These efforts are to provide appropriate information to individuals that operate animal operations, certified Nutrient Management Specialists developing plans in your area, and the general public.
4. The Districts will provide information to interested persons on Act 38 financial assistance programs supporting nutrient management plan development and implementation and advise farmers of alternative funding sources for nutrient management plan implementation.
5. The Districts, 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 individuals. Each district will retain on file a copy of the animal density status for all of those farmers that they identified as potential CAOs in their respective county that

Appendix III – Delegation Agreements

they evaluate after the effective date of this agreement. The districts will assist these operators, when requested, in determining their animal density status. When potential CAOs do not respond to these district outreach efforts, the Associate district will inform the SCC Regional Nutrient Management Coordinator to look into the situation further. For situations where Districts cannot obtain cooperation from potential CAOs or those determined to be CAOs, these districts will carry out the provisions of the Commission’s enforcement strategy as described in item “D” under ‘Additional Duties of the Host District’.

B. The conservation districts will assist farm operators and Nutrient Management Specialists with implementing the provisions of the Nutrient Management regulations.

REQUIRED OUTPUT MEASURES:

1. The Districts will provide assistance to farmers and private sector Nutrient Management Specialists working in the county. This will include providing available preprinted resource materials (e.g. soils maps, manure management manuals, fact sheets, etc.) to all Nutrient Management Specialists requesting information to develop a plan within the county.
2. The Associate District will forward all nutrient management technical assistance requests not to be handled by the district staff to the Host District or other appropriate agencies for action or follow-up.
3. The Districts will assist operators of animal operations in determining if they meet the mandatory provisions of Act 38.

C. The conservation districts will act on those plans, plan amendments, waivers, and possible enforcement cases submitted for review within its county.

REQUIRED OUTPUT MEASURES:

1. The Districts will record the receipt of nutrient management plans, plan amendments, and plan transfers submitted for approval by operations within their county. The Associate Districts will transmit these submitted plans to the Host District for review and comment within 5 working days of receipt.
2. The Districts will, based on the Host District's review of the plan or plan amendment, approve or disapprove submitted plans, in accordance with the guidelines provided in the administrative manual, within 90 days of receipt of the nutrient management plan. The Districts will inform those submitting plans for approval of their decision to approve/disapprove the plan, according to the guidelines in the Administrative Manual.
3. The Districts will maintain a file on each nutrient management plan, plan amendment, and plan transfer submitted for review and approval within its jurisdiction. The official District file for an operation will be retained in the Host District office.

Appendix III – Delegation Agreements

4. The Districts will file plan implementation information submitted by operators with approved plans. These records include Manure Transfer Sheets, Annual Summaries of Manure Transfers, and designs developed for BMP implementation. A copy of the submitted information will be transmitted to the Host District for its review.
5. The Associate District will transmit a copy of any requests for a waiver from the manure storage setback requirements to the Host District within 5 working days of receipt from the operator. The Districts will keep a copy of the proposed waiver with their file on the approved plan. The Associate District will, within 5 days of receipt, acknowledge to those submitting requests for waivers, receipt of the waivers along with a summary of the waiver review process.
6. The Districts will, based on the Host District's review of the proposed manure storage setback waivers, approve/disapprove the waivers in accordance with the guidelines provided in the Administrative Manual, within 60 days of receipt of the proposed waiver. The Districts will, within 65 days of receipt of the proposed waiver, inform those submitting proposed waivers for approval, of their decision to approve/disapprove the waiver, according to the guidelines in the Administrative Manual.
7. The Districts will provide to those operators with approved plans, all information and forms transmitted by the Commission in order to allow those with approved plans to meet the requirements of the Act 38. These materials include those contained in the exported manure informational packet, as well as the forms required for documenting manure export.
8. The Districts will review possible Act 38 enforcement cases that the Host District nutrient management specialist has submitted to the District for its review and determine if the operation should be submitted to the Commission for enforcement. The outcome of this review will be communicated to the Host District for further action.
9. The Board of any District in the multi-county agreement will, on the recommendation of the Host District nutrient management specialist, and in accordance with the Administrative Manual, submit to the Pennsylvania Department of Agriculture (“PDA”) the names of those specialists meeting the criteria established for nutrient management specialist certification revocation. The Districts will also submit to the PDA any supporting documentation that verifies the basis for submitting these names.

D. The conservation districts will be the lead agency in reviewing proposed plan implementation extensions.

REQUIRED OUTPUT MEASURES:

1. The Districts will acknowledge receipt of proposed extensions to the implementation schedule of approved nutrient management plans through written correspondence to the operator, within five working days of receipt.

Appendix III – Delegation Agreements

2. The Associate District will transmit these proposals for extensions to the Host District within 5 working days of receipt.
3. The Districts will evaluate the proposed extensions and determine if they are acceptable based on the regulations and guidance outlined in the Administrative Manual, and comments received by the Host District.
4. The Districts will correspond with the operator proposing the extension, indicating the findings of the evaluation.

E. The conservation districts are to provide the Commission with the appropriate reports to document efforts planned or completed in the programs.

REQUIRED OUTPUT MEASURES:

2. The Districts will provide the Commission with quarterly reports that list, as a minimum: number of meetings held, number of people trained, number of educational efforts completed, and number of CAO and volunteer plans received. Reports will be submitted on forms supplied by the Commission.

F. The conservation districts 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:

1. Each signatory District to the agreement will provide administrative assistance for the Plan Development Incentives Program. Districts will be compensated for activities completed according to rates established by the Commission.
 - a) The District will make available and receive applications for the program on an ongoing basis.
 - b) The District will review applications for completeness, determine the eligibility of the applicant, approve or disapprove applications for program funds and determine the appropriate level of funding for approved applicants according to guidelines established by the Commission.
 - c) The District will process appropriate requests for funding and cost share payments due to the applicant and submit the requests to the Commission or cooperating agency administering fund disbursement.
2. The District will provide administrative assistance to interested farmers for the Agriculture Linked Investment Program (AgriLink). The District will provide interested persons with necessary program information or forms provided by the Commission. Districts will be compensated for activities completed according to rates established by the Commission.

Appendix III – Delegation Agreements

- a) Appropriate District staff will evaluate and concur by signature, on the proposed project costs provided by the applicant on the ‘Statement of Concurrence of Project Costs’, a part of the AgriLink loan application package.
 - b) The District will provide any available additional information requested by the applicant or lending institution for a complete application package under the AgriLink Program.
3. The District will provide administrative assistance to interested farmers for the Nutrient Management Plan Development Implementation Grant Program (NMPDIP Grant Program). The District will provide interested persons with necessary program information or application forms provided by the Commission. Districts will be compensated for activities completed according to rates established by the Commission.
- a) The District will complete the following NMPDIP Grant Program application forms or required portions of those forms requiring District input according to the guidelines of the NMPDIP Grant Program at the request of the applicant.
 - i) *Verification of Approved Nutrient Management Plan and Best Management Practices*
 - ii) *Verification of Other Funds Available*
 - iii) *Statement of Proposed Project Cost.* The District must complete a portion of this form only when the District has developed the project designs and costs. If a private engineer or USDA NRCS staff person develops the project design and costs, they will be responsible for completing this form.
 - b) The District may assist, as their resources permit, interested farmers with completion of the remaining sections of the NMPDIP Grant Program applications, when requested, under the following conditions:
 - i) This activity is to be a low priority under the delegation.
 - ii) Districts are strongly discouraged from actually completing and/or mailing/delivering the application form for the farmer. They may, as their resources permit, provide necessary clarification concerning information requests within the application, to assist farmers in their efforts to complete the application.
 - iii) Districts are not to assist with the financial analysis section of the application. Farmers are directed to work with a financial consultant as they complete that section of the application.
4. The District will provide the necessary reports on quarterly activities for financial assistance programs including the number of farmers assisted with financial assistance applications and the number of PDIP applications processed by the district.

Appendix III – Delegation Agreements

5. The District will advise applicants of alternative funding sources for project implementation.

G. The conservation districts will provide limited assistance to the Pennsylvania Department of Agriculture in the implementation of the Act 49 Manure Hauler and Broker Certification program.

REQUIRED OUTPUT MEASURES:

1. The Districts 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 regular office hours, and only if the District has staff and room availability to provide this service. All testing materials will be provided by the PDA.
2. When performing periodic status reviews, or site visits relating to complaints, the Host 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 Host District will determine based on Act 49 program certification listings, whether the commercial haulers/brokers used are properly certified under Act 49.
 - a. Act 38 operations determined by the Host 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 continually in violation of certification requirements established under Act 49, the District will contact the PDA to address the issue.
 - c. The Host District will submit to the PDA any supporting documentation that verifies the basis for submitting these names.

H. The conservation districts will provide assistance to the Pennsylvania Department of Environmental Protection in the implementation of the Manure Management Program under Chapter 91, Section 36 of the Clean Streams Law.

REQUIRED OUTPUT MEASURES:

1. Overall program development efforts - The Host District will, in consultation with the Associate District, develop AND ADOPT a manure management outreach, education & training, and compliance implementation strategy that covers the following for the districts in this agreement:
 - a. 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.
 - b. Identification and prioritization of types of farming operations the districts will support with manure management plan **development** and **implementation** assistance efforts and services.

Appendix III – Delegation Agreements

- c. A written fee schedule, if appropriate, that will be charged for Section 91.36 services performed by the districts. Each district would approve its own fee schedule.
 - 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 Department.
2. Outreach – The Host District will, in consultation with the Associate District 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 etc.).
 - b. Activities will include distribution of materials developed by the district, the Department or other cooperating agencies or organizations.
 3. Education – The Host District will, in consultation with the Associate District take the lead role in the coordination of education activities to provide appropriate information pertaining to manure management planning principles and compliance requirements under Section 91.36 to the agriculture community.
 - a. Activities must include a minimum of 2 education activities per calendar year (e.g. farmer meetings or workshops etc.).
 - b. Activities will include distribution of materials developed by the district, the Department or other cooperating agencies or organizations.
 4. Training – The Host District will, in consultation with the Associate District facilitate workshops for agricultural operations in the development and the implementation of manure management plans separately or in cooperation with other districts or agencies.
 - a. The Host 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.
 - b. The Host District will conduct technical training programs for consultants assisting farmers in the development of a manure management plans or providing planning services to farmers for manure management plan development. The implementation of this activity may be coordinated with technical trainings for farmers.
 5. Planning and implementation assistance.

Appendix III – Delegation Agreements

- a. The Host District will, in coordination with the Associate District provide technical assistance to farmers and their consultants in developing manure management plans consistent with priorities established in the district's program implementation strategy.
 - b. The Host District will, in coordination with the Associate District 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.
 - c. The Host District may provide full plan development for farmers consistent with the district's manure management program strategy and priorities, as resources permit.
 - d. The Host District may perform quality assurance 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 permit.
6. Complaint Response and referral
- a. Within 10 business days of receipt of a complaint, the Districts 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 Host District will schedule and make a site visit to assess the problem in cooperation with the Associate District, where applicable and other appropriate agencies or organizations. Complaints and site visits will be documented on forms provided by the Department, 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 Host 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 Department. The District shall record any contact with agricultural operators to document attempts to bring such situations into compliance. A copy of this documentation should be provided to the Associate District, where applicable.
 - c. Agricultural operations involving continued violations and where compliance cannot be obtained by the Districts are to be reported to the Department for further action. The Districts will use the criteria established by the Department for documentation and preparation of enforcement actions. All actions, reports and other forms of documentation including personal observations can be used as evidence during any subsequent enforcement actions by the Department.
7. The Host District will provide the Department with quarterly reports detailing accomplishments under this delegation agreement that includes, outreach and educational efforts completed, trainings and workshop provided to farmers and consultants, technical assistance activities provided to farmers, the number of

complaints, and the number and status of complaint related site visits. Reports will be submitted on forms supplied by the Department.

ADDITIONAL DUTIES OF THE HOST DISTRICT:

A. The host conservation district shall provide the lead role in evaluating plans to assure they comply with the Nutrient Management regulations.

REQUIRED OUTPUT MEASURES:

1. The Host District will review and approve/disapprove submitted nutrient management plans, plan amendments and transfers in accordance with those procedures outlined in the Nutrient Management regulations, the Administrative Manual, the PA Nutrient Management Act Technical Manual and policies and guidelines established by the Commission.
 - a. In relation to reviewing owned and rented lands included in a nutrient management plan, the district will perform a site visit 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 Nutrient Balance Sheets (NBSs) submitted as part of a nutrient management plan, 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 NBS. In performing this assessment, the district should minimize any imposition on the importing operator.
 - c. The Host District Nutrient Management Specialist will coordinate their nutrient management plan review effort with district staff involved with the Chapter 102 program, to verify that the operation under review has a current Agricultural Erosion and Sedimentation Control Plan under Section 102.4(a) in accordance with the Act 38 time frame provided for this requirement.
 - d. Where a plan is submitted for Act 38 review and approval, and that plan will also be used to meet the NRCS 590 standard or the DEP CAFO program requirements, the district will notify other relevant agencies of their review effort and coordinate their review with that agency.
 - e. Where a nutrient management plan for an agricultural operation identified as CAFO is received by the district, the district shall publish, in the Pa Bulletin, the receipt of the nutrient management plan following Act 38 program guidance. The district will cooperate with the Pennsylvania Department of Environmental Protection in the review of those plans.
2. The Host District will report to the Associate District the review findings for the plans submitted by the Associate District, as well as provide consultative

Appendix III – Delegation Agreements

assistance to the Associate District in the approval/disapproval of the submitted plans. This report will be supplied to the Associate District within 50 days of receiving the plan from the Associate District.

3. Plans and plan amendments developed by conservation district 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 others' plans. Such reciprocal arrangements will be submitted in writing to the Commission for its records. 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.
4. The Host District will review all plan implementation information submitted as supplements to approved plans, to assess compliance with the approved plans and the regulations. The Host District shall perform on-site visits to 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 Host District shall attempt to get the operator to voluntarily comply in accordance with the Administrative Manual and in consultation with the Associate District, where applicable.
5. The Host District will provide the Commission with quarterly reports that summarize those Level 2 activities performed during the report period. Reports will be submitted on forms supplied by the Commission and according to the schedule approved by the Commission.

B. The host 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 Guidelines For Providing Technical Assistance, the Host District will, to the extent possible, provide technical direction or assistance to private sector specialists and farmers in the development of nutrient management plans or portions of nutrient management plans.
 - a. The Administrative Manual section labeled Guidelines For Providing Technical Assistance, describes the policy concerning the District's limited involvement in writing nutrient management plans, and the Commission's strong direction to Districts to assist the certified farmers and private sector specialists in their development of those portions of the plan which the district has expertise. This may include assisting

Appendix III – Delegation Agreements

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. Plan development activities may be provided if 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 of the Attachment.

- b. The Host District will complete an animal equivalent unit (AEU)/acre calculation sheet for any individual requesting that the district write their plan. This calculation sheet will be signed by the farmer and retained at the district office to document the CAO status of those individuals requesting plan writing assistance from the district.
 - c. The Host District will provide a letter to all applicable farmers who request the district to write their plan, indicating that the district may not be able to address their request for some time and they are recommended to utilize the services of a private sector specialist or become certified to develop their own plan. A listing of available commercially certified private sector specialists should be provided with this correspondence.
2. To assist in nutrient management plan implementation, the Host District will provide or facilitate, as resources allow, general technical assistance to program participants with approved nutrient management plans. 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 Pa. professional engineering certification. Where District staff does 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. The Associate District may provide technical assistance in coordination with the Host District, as resources allow.
 3. The Host District will provide technical assistance, as resources allow, consistent with Item 2 above for the Agriculture Linked Investment Program (AgriLink) and the NMPDIP Grant Program where funding for implementation of financial assistance programs is available to the Commission.
 - a) When an applicant is receiving funding under the AgriLink Program or the NMPDIP Grant Program and has requested the assistance of the District, the District will provide or facilitate technical assistance, as resources allow, in project design, development and/or review of project costs. This assistance may also include installation and monitoring of the project.

Appendix III – Delegation Agreements

- b) Except for those projects utilizing private sector engineers, the Host District will provide or facilitate technical assistance in the certification of approved projects receiving funding under the AgriLink Program or the NMPDIP Grant Program, where resources are available.

C. The host conservation district will perform status reviews on Concentrated Animal Operations, financial assistance recipients, and Volunteers with approved Act 38 plans to assess plan implementation efforts.

REQUIRED OUTPUT MEASURES:

1. The Host District will assess nutrient management plan implementation by performing annual on-site status reviews on all concentrated animal operations with approved plans. All CAOs 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 and inspected by DEP, a DEP inspection will fulfill this requirement. Districts are encouraged to coordinate joint inspections with DEP to efficiently utilize program resources.
3. The Host District shall perform on-site status reviews on operations receiving Nutrient Management Plan Implementation (“NMPI”) Grant Program funds or AgriLink funds, at least once every 2 years.
4. The Host District shall assist CAOs and operations receiving NMPI Grant Program or AgriLink funds and determined to be out of compliance based on an on-site status review, to implement the 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.
5. The Host District shall perform status reviews on volunteer (non-CAO, and non- NMPI Grant or AgriLink recipient) operations with approved nutrient management plans at least once every 3 years. These site visits should be structured as informal education visits to educate the farmer on the advantages of implementing the plan.
6. As part of the status review for an operation the Host District will assess an operator’s implementation of the Operation and Maintenance plan for the BMPs included in the approved nutrient management plan.

D. The host 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 these problem areas into compliance.

REQUIRED OUTPUT MEASURES:

Appendix III – Delegation Agreements

1. Within 10 business days of receipt of a complaint, the Host 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 Host District will schedule and make a site visit to assess the problem 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 Host District will work with those operators found to be in violation of the Nutrient Management Rules and Regulations, to obtain voluntary compliance with these provisions as specified in the Administrative Manual. The Host District shall record any contact with these operators to document attempts to bring such situations into compliance and provide copies of documentation to the Associate District, when applicable.
3. For sites involving continued violations, the Host District will use the criteria established by the Commission for documentation and preparation of enforcement actions. These operations where compliance cannot be obtained by the Host District are to be reported to the Associate District where the operation exists for its consideration. The Host District will prepare information and transmit the materials to the Commission for those cases approved by the Associate District to be sent to the Commission. All actions, reports and other forms of documentation including personal observations can be used as evidence during any subsequent enforcement actions by the Commission.
4. The Host District will provide the Commission with quarterly reports detailing accomplishments under this level agreement that list as a minimum: number of complaints, and the number and status of complaint related site visits. Reports will be submitted on forms supplied by the Commission.
5. The Host 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 assuring 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.

E. The host conservation district will review and approve/disapprove waivers to the manure storage setback requirements in the Nutrient Management regulations.

REQUIRED OUTPUT MEASURES:

1. The Host District will acknowledge receipt of proposed waivers through written correspondence to the operator requesting the waiver, within five working days of receipt of the request.

Appendix III – Delegation Agreements

2. The Host District will file a copy of the proposed waiver with the operator's approved plan.
3. The Host District will provide an on-site evaluation of the proposed waiver, within 20 working days of receipt of the request, utilizing the general criteria outlined in the Administrative Manual.
4. The Host District will, based on the above evaluation and the guidance provided by the Commission, report to the Associate District and approve/disapprove of the proposed waiver within 60 calendar days of receipt of the request.
5. The Host District will inform the operator requesting the waiver, of its decision to approve/disapprove the request, within 65 calendar days of receipt of the request.

F. The Host conservation district will assist the Associate District in its review of proposed plan implementation delays.

REQUIRED OUTPUT MEASURES:

1. The Host District will perform an on-site review of the proposed implementation delay within 20 days of receipt of the proposed delay from the Associate District, and report back to the Associate District with findings and recommendations within 30 days of the Host District's receipt of the proposed delay.

G. The conservation district will be involved in the monitoring of 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 Host District will cooperate with the PDA to assure that those operations falling under the Act and quarantined by PDA due to a contagious disease, follow those emergency criteria outlined in the Nutrient Management regulations.
2. The Host District will process and file all plan amendments developed due to unforeseen circumstances in accordance with the Administrative Manual. The Host District will transmit these plan amendments, along with appropriate reports, findings and recommendations to the Associate District for approval.

ATTACHMENT “B”

Rev. 8/10

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

A. If this contract is a grant agreement,

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, by reason of gender, race, creed, or color, discriminate 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 against or intimidate any of its employees on account of gender, race, creed, or color.
3. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of gender, race, creed, or color against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Grantee, any subgrantee, any contractor or any subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the granting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within thirty (30) days after award of any grant, the Grantee shall be required to complete, sign and submit Form STD-21, the “Initial Contract Compliance Data” form. Grantees who have fewer than five employees or whose employees are all from the same family or who have completed the STD-21 form within the past 12 months may, within 15 days, request an exemption from the STD-21 form from the granting agency.
6. 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.
7. 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

Appendix III – Delegation Agreements

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.

ATTACHMENT “C”

PROVISIONS FOR COMMONWEALTH CONTRACTS

CONTRACTOR INTEGRITY PROVISIONS

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 procurement process.

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 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 Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.; the State Adverse Interest Act, 71 P.S. §776.1 et seq.; and the Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq., or to breach any other state or federal law or regulation.
4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

Appendix III – Delegation Agreements

8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, 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.
9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
 - a. Approved in writing by the Commonwealth prior to its disclosure; or
 - b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
 - c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
 - d. Necessary for purposes of Contractor's internal assessment and review; or
 - e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
 - f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
 - g. Otherwise required by law.
10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:
 - a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
 - b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
 1. obtaining;

Appendix III – Delegation Agreements

2. attempting to obtain; or
3. performing a public contract or subcontract

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- c. Violation of federal or state antitrust statutes.
- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the Act of June 2, 1915 (P.L.736, No. 338), known as the Workers' Compensation Act, 77 P.S. 1 et seq.
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or department of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the Pennsylvania Election Code) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
 - a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
 - b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq., and the regulations promulgated pursuant to that law. Contractor employee activities

Appendix III – Delegation Agreements

prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these 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 Commonwealth Inspector General in writing.
14. 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.
15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of 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 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 refers to or concern this contract.
16. 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 any one 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.
17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.
 - a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
 - b. "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 pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
 - c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having

Appendix III – Delegation Agreements

more than a five percent interest in Contractor.

d. “Financial interest” means:

1. Ownership of more than a five percent interest in any business; or
2. Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

e. “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.

f. “Immediate family” means a spouse and any unemancipated child.

g. “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.

h. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

OFFSET PROVISION

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

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 subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

a. The Contractor must certify, in writing, for itself and all its subcontractors, as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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 the bid/proposal, a written explanation of why such certification cannot be made.

Appendix III – Delegation Agreements

- b. The Contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- 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 contracting agency 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 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 contracting agency 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 Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which 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 which do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain the current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone Number: (717) 783-6472
FAX Number: (717) 787-9138

THE AMERICANS WITH DISABILITIES ACT

- 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 and executing 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 the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

RIGHT TO KNOW LAW

Appendix III – Delegation Agreements

I. If this contract is a grant agreement:

- a. Grantee or Subgrantee understands that this Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 ("RTKL"). For the purpose of these provisions, the term "the Commonwealth" shall refer to the granting Commonwealth Agency.
- b. If the Commonwealth needs the Grantee's or Subgrantees assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, 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 Grantee's or Subgrantees assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee's or Subgrantees possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), Grantee or Subgrantee 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 Grantee's or Subgrantees possession arising out of this Grant Agreement 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 Grant Agreement.
- d. If the Grantee or Subgrantee 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 Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by the representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from Grantee or Subgrantee 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, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If Grantee or Subgrantee fails to provide the Requested Information within the time period required by these provisions, Grantee or Subgrantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantees failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse Grantee or Subgrantee 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.

Appendix III – Delegation Agreements

- h. Grantee or Subgrantee 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, Grantee or Subgrantee 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 Grantee's or Subgrantees failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, Grantee or Subgrantee 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 Grantee's or Subgrantees duties relating to the RTKL are continuing duties that survive the expiration of this Grant Agreement and shall continue as long as the Grantee or Subgrantee has Requested Information in its possession.

II. If this contract is a lease agreement:

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 ("RTKL") applies to this Lease. For the purpose of these provisions, the term "Commonwealth" shall refer to the Department of General Services or the tenant Commonwealth agency.
- b. If the Commonwealth needs the Lessor's assistance in any matter arising out of the RTKL related to this Lease, it shall notify the Lessor using the legal contact information provided in this Lease. The Lessor, 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 Lessor's assistance in responding to a request under the RTKL for information related to this Lease that may be in the Lessor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information") the Lessor 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 Lessor's possession arising out of this Lease 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 Lease.
- d. If the Lessor 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 Lessor considers exempt from production under the RTKL, the Lessor 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 Lessor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Lessor 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 Lessor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

Appendix III – Delegation Agreements

- f. If the Lessor fails to provide the Requested Information within the time period required by these provisions, the Lessor 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 Lessor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Lessor for any costs associated with complying with these provisions only to the extent allowed under that fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Lessor 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 Lessor 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 Lessor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Lessor 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. Lessor's duties relating to the RTKL are continuing duties that survive the expiration of this Lease and shall continue as long as the Lessor has Requested Information in its possession.

III If this contract is other than a grant 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 "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

Appendix III – Delegation Agreements

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 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 the 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.

PENNSYLVANIA ELECTRONIC PAYMENT PROGRAM (PEPP):

I. For Procurement Contracts

- a. The Commonwealth will make contract payments through the Automated Clearing House (ACH) Network. Within 10 days of award of the contract or purchase order, the Contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).
- b. Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Contractor to properly apply the Department's payment to the invoice submitted.
- c. It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
- d. Contractor may enroll for PEPP at:

Appendix III – Delegation Agreements

<http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf>

II. For Grant Contracts:

- a. The Commonwealth will make payments to the Grantee through the Automated Clearing House (ACH) Network. Within 10 days of the grant award, the Grantee must submit or must have already submitted its ACH information to the Commonwealth's Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street - 9th Floor, Harrisburg, PA 17101
- b. The Grantee must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Grantee to properly apply the Department's payment to the respective invoice or program.
- c. It is the responsibility of the Grantee to ensure that the ACH information contained in the Commonwealth's central vendor master file is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
- d. Grantee may enroll for PEPP at:
<http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf>

Appendix III – Delegation Agreements

ATTACHMENT "D"

Staff resources of the county conservation district to be committed to completion of all Nutrient 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:**

Appendix III – Delegation Agreements

ASSOCIATE COUNTIES

MEMORANDUM OF AGREEMENT OF PARTICIPATION

By this memorandum, I certify that our conservation district listed on the nutrient management delegation agreement proposal from _____ Conservation District agrees to participate in a multi-county agreement as an associate county.

Check one:

- We request that the block grant for participating in the nutrient management program be sent directly to us rather than to the host county.

- We request that the block grant for participating in the nutrient management program be sent directly to _____, the host county.

Action was taken by the _____ District Board on _____

to approve entering into this agreement.

Representative of Conservation District

Name (typed or printed) _____

Signature _____

Title _____

Date _____

Appendix III – Delegation Agreements

OPTIONAL ADDENDUM FOR DISTRICT USE

**AGREEMENT FOR THE SHARING OF A NUTRIENT MANAGEMENT SPECIALIST
BETWEEN CONSERVATION DISTRICTS**

The Conservation Districts of

_____ County
_____ County
_____ County, and
_____ County

hereby agree to share the benefits of employing one Nutrient Management Specialist.

Each county shall provide work space for the specialist's use when she/he is in that county. The county shall also provide administrative support, such as access to photocopier machine and telephone, and taking messages when the specialist is not in the office.

Districts entering into this agreement anticipate the following workloads.

Conservation District	% of Specialist's Time
_____	_____
_____	_____
_____	_____
_____	_____

Reviewing Plans from
Other Regions _____

The Specialist's primary working contact in each district will be the District Manager. The Specialist's priority shall be established by the district managers of the Host and Associate counties under this addendum according to work load needs and priorities identified by each county for the Nutrient Management Act and Manure Management Programs. The Specialist should keep records of time spent on work for each county. These reports shall be shared at quarterly multi-county meetings, and an annual report of efforts shall be developed for review by the multi-county unit.

The Specialist will _____ will not _____ (check one) spend part of his/her time reviewing plans written by specialists from outside the multi-county area.

This agreement can be changed only with the consent of all parties involved.

Conservation District	District Chairperson's Signature	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ATTACHMENT "E"

Date: _____

**NUTRIENT MANAGEMENT and MANURE MANAGEMENT PROGRAM
DELEGATION AGREEMENT
PROPOSAL FORM**

CONSERVATION DISTRICT

I. Delegation Option: Level 2

_____ Single District

or

 X Multi-district

(List Districts Involved)

_____ Host District

_____ Associate District

_____ Associate

District

_____ Associate

District

II. Time Period Covered by the Proposal: July 1, 2012 to June 30, 2013

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 and Manure Management Program work (total for all staff above)

Appendix III – Delegation Agreements

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)

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 (use multiple lines or sheets if necessary)	Salary and Benefits Amount Funded

(Use additional page(s) if necessary)

IV. Narrative Description of the Proposal

(Add or modify the description if necessary)

We agree to carry out Level 2 responsibilities relating to the Nutrient and Manure Management Programs and regulations in accordance with the conditions and duties as described in the delegation agreement, and appropriate guidelines in the Administrative Manual and the Manure Management Program in accordance with conditions and duties described in the delegation agreement and guidance provided by the Department of Environmental Protection. Claims for reimbursement will be for the performance of the duties listed in Attachment "MA" in accordance with the approved budget.

V. Budget Proposal

(Please complete the attached budget sheets)

Appendix III – Delegation Agreements

VI. Authorization

Action was taken by the _____ District Board on _____
to approve this proposal.

Representative of the Conservation District

Name (type or print) _____

Signature _____

Title _____

Appendix III – Delegation Agreements

BUDGET WORKSHEET

FOR

July 1, 2012 - June 30, 2013

DISTRICT _____

Salaries \$ _____

Benefits \$ _____

Travel Costs \$ _____

Equipment Costs \$ _____

Administrative Costs

_____ County \$ _____
_____ County \$ _____
_____ County \$ _____
_____ County \$ _____
_____ County \$ _____

Administrative Subtotal

\$ _____

Other/Miscellaneous (list budget items from approved categories)

_____ \$ _____
_____ \$ _____

Budget Total (transfer this total figure to the Budget Sheet page) \$ _____

Appendix III – Delegation Agreements

NUTRIENT MANAGEMENT (ACT 38) and MANURE MANAGEMENT (25 Pa.
Code § 91.36) PROGRAM DELEGATION AGREEMENT BUDGET SHEET

FOR

Fiscal Year: July 1, 2012 - June 30, 2013

CONSERVATION DISTRICT: _____

Delegation Agreement Budget Request \$ _____

Model Inter-District Reciprocal Agreement for Reciprocal Review of Nutrient Management Plans

Appendix IV

Appendix IV - Model Inter-District Reciprocal Agreement for Reciprocal Review of
Nutrient Management Plans

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

Appendix IV - Model Inter-District Reciprocal Agreement for Reciprocal Review of
Nutrient Management Plans

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 a/lowed 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

Appendix IV - Model Inter-District Reciprocal Agreement for Reciprocal Review of
Nutrient Management Plans

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 waived 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.

Appendix IV - Model Inter-District Reciprocal Agreement for Reciprocal Review of Nutrient Management Plans

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]

Appendix IV - Model Inter-District Reciprocal Agreement for Reciprocal Review of
Nutrient Management Plans

Chairman _____ Date _____
_____ County Conservation District

Chairman _____ Date _____
_____ County Conservation District

PA Bulletin Notices for Submission and Actions on CAFO NMPs and CAFO Decision Trees

Appendix V

PA Bulletin Notice on Submission and Actions of CAFO NMPs.

Send electronically to:

South Central Region: Kelly Rathfon at krathfon@pa.gov

North Central Region: Jeffrey Gocek at jgocek@pa.gov
and
Thomas Randis at trandis@pa.gov

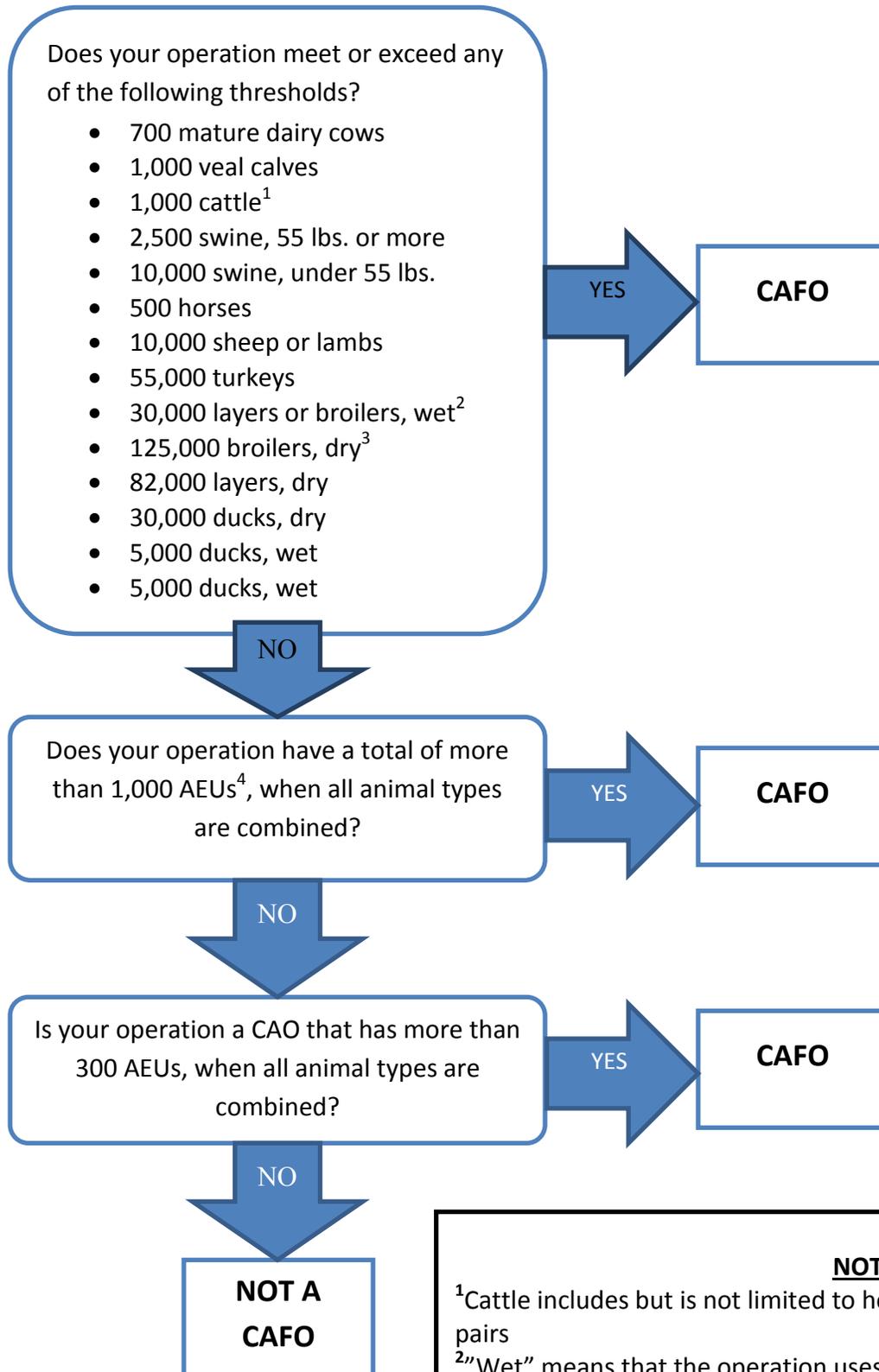
South West Region: Donald Leone at dleone@pa.gov

North West Region: Ellen Roberts at eroberts@pa.gov
and
Matt Williams at matthewwi@pa.gov

South East Region: Desiree Henning-Dudley at dhenningdu@pa.gov

North East Region: Paul Grella at pgrella@pa.gov
and
Susan Pelak at spelak@pa.gov

Is My Operation a CAFO?



NOTES

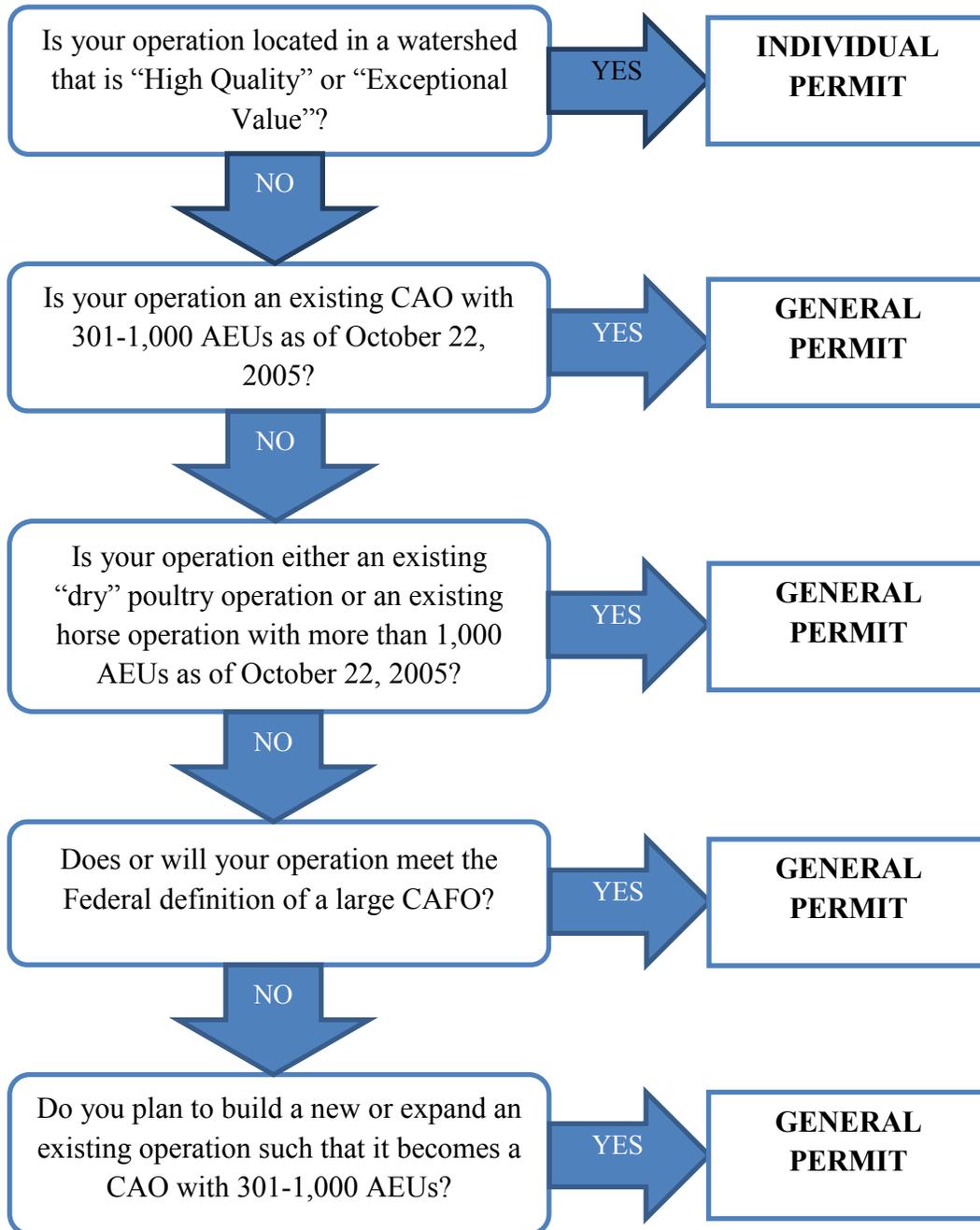
¹Cattle includes but is not limited to heifers, steers, bulls, and cow pairs

²“Wet” means that the operation uses a liquid manure handling system

³“Dry” means that the operation uses something other than a liquid manure handling system

⁴AEU is 1,000 lbs. live weight of livestock or poultry animals

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 VI

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).
 - 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.
- B. 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).
- C. 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:

- A. Consider the following:
 - Big room
 - Formal setting such as a county courthouse room (not a fire hall, etc.)
 - Security at the door and then in the room during the meeting
 - A gavel to win control of the meeting when necessary
 - Multi-microphone loud speaker system
 - Agenda (keep it short)
 - Tape recorder (dedicated tapes)
 - Sign in sheets (one for general sign-in, and one for those who wish to present)
 - Someone to sit at the sign-in table to direct the public
 - Name cards for the resource people (? for board members)
 - A podium for guests to speak from
 - Tables for the Board members, a table for resource people (one for planner)
 - Formally (in writing) invite program resource people (state staff) if you would like their involvement
 - County lawyer
- B. 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.

Appendix VI –Suggested CD BOD Meeting Procedures

- C. 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.
- D. 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.
- 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.
 - 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).
 - See attached guidance for additional issues that can be addressed in this statement.
- E. Call on the planner to summarize the plan and proposed operation to the Board.
- 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.
 - Board members should be prepared to ask questions of the planner to assure they understand the procedures described in the plan.
- F. Call on the reviewer to summarize their plan review activities and provide their recommendations for approval or disapproval of the plan.
- The reviewer should describe, based on the regulatory criteria, why they make the recommendation.
 - 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.
- G. Next, the public should be called forward to provide their comments to the Board.
- 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 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.
 - The public should be called forward by the facilitator (Chairman or Vice-Chairman) in order on the sign-in sheet.
 - 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.

Appendix VI –Suggested CD BOD Meeting Procedures

- 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).
 - 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.
 - 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.
 - 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.
- H. 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.
- An action needs a motion, a second and a vote.
 - 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.
 - Action on the plan should be done by a voice vote, unless it is close, and then a role call voice vote may be necessary.
 - 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.
 - 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.
- I. 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:

1. 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.
2. 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.
3. State that plan was made available to the public as of _____ (date).
4. District has state certified staff available to provide review, consistent with NMA requirements.
5. 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.
6. Also other resources people asked to help during the district’s deliberations (if appropriate).
7. Lay out the format for this portion of the meeting:
 - A. NM Planner gives review of plan.
 - B. Staff Specialist gives summary of review actions and recommendation. Conservation District Board can ask questions at any time during these two presentations.
 - C. Public called up according to sign up sheet, CD board may ask questions to help clarify and understand the public comments.
8. 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

Appendix VI –Suggested CD BOD Meeting Procedures

directed to the district facilitator, who may direct questions and concerns to their resource people, if necessary.

9. 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 VII

**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

Appendix VII –Appeals of CD Decisions

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 VIII

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

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 VIII – 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 IX

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)

Frank Schneider

Nutrient Management Program Director
717-705-3895
Email: fschneider@pa.gov

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.

Laurel Rush

Nutrient Management Program Regional Coordinator

Appendix IX

215.287.3728(cell) | 724.832.1073 ext. 262

Email: 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

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.

Jamie Ulrich

Nutrient Management Program Regional Coordinator

215-287-5187 (cell) / 814-793-1849 ext.235 | 814-793-1869 (fax)

Email: aulrich@pa.gov

Provides Act 38 assistance to the Northwestern 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.

Michael Walker

Nutrient Management Program Regional Coordinator

215-2879704 (cell) / 570-433-2640, ext. 221 / 570-433-4770 (FAX)

Email- miwalker@pa.gov

Appendix IX

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.

Johan Berger

Nutrient Management Certification & Financial Assistance Section Chief

717-772-4189

Email: joberger@pa.gov

Supervises Nutrient Management Program activities assigned to program staff in the development and implementation of the certification and education programs, financial assistance programs, technical assistance and statewide general implementation activities of the Nutrient Management Program.

Michael Aucoin

Certification & Education Specialist

717-772-5218

Email: 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.

Larry Baum

Conservation Program Specialist

717- 772-4188

Email: lbaum@pa.gov

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.

Appendix IX

Mark Jackson

Conservation Program Specialist

717-836-3373

Email: 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) / 570-836-2181; 570-836-6266 (FAX)

Email: 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)

Doug Beegle

Professor of Agronomy

Department of Crop and Soil Sciences

116 ASI Building

University Park, PA 16802

814-863-1016; 814-863-7043 (FAX)

Email: dbb@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.

Jerry Martin

Senior Extension Associate

Appendix IX

Nutrient Management Education Program
1383 Arcadia Road, Room 140
Lancaster, PA 17601
717-394-6851; 717-394-3962 (FAX)
Email: jmartin@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
Research Technologist
2301 N. Cameron Street, Room 311
Harrisburg, PA 17110-9408
717-783-9704
Email: c-doorner@pa.gov

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

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.

Pete Vanderstappen, PE
Assistant State Conservation Engineer, NRCS

Appendix IX

717-237-2228

Email: Peter.Vanderstappen@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

400 Market Street

P.O. Box 8555

Harrisburg, PA 17105-8555

717-772-5644

717-787-9549 (FAX)

Ryan Kostival

Environmental Group Manager

717-772-5658

Email: rkostival@pa.gov

Oversees PA's Concentrated Animal Feeding Operations (CAFO) Program and programs to regulate agricultural animal production operations under The Clean Streams Law. Provides guidance for the implementation of the Manure Management Manual requirements. Provides assistance to the State Conservation Commission in the Act 38 Nutrient Management Program.

Tom Juengst

Conservation Program Specialist, DEP

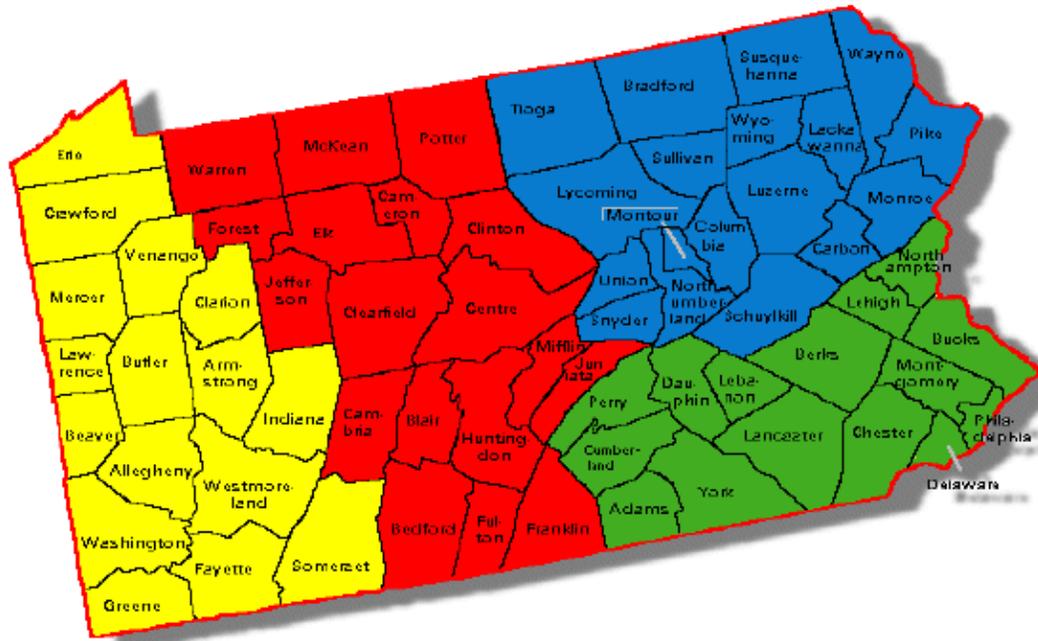
717-772-5646

Email: tjuengst@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.

Nutrient Management Program Coordinator Areas

SCC Coordinator Map



DEP REGIONAL OFFICES

Southwest Region

400 Waterfront Drive
Pittsburgh, PA 15222
412 442-4000

Counties

Allegheny, Armstrong, Beaver, Cambria,
Fayette, Greene, Indiana, 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

Butler, Clarion, Crawford, Elk, Erie, Forest,
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 X

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 X

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 X

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	SINNEMAHONING 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 X

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 X

20-C	CONNOQUENESSING
20-D	RACCOON
20-E	ENLOW FORK
20-F	CHARTIERS
20-G	SEWICKLEY

Appendix X

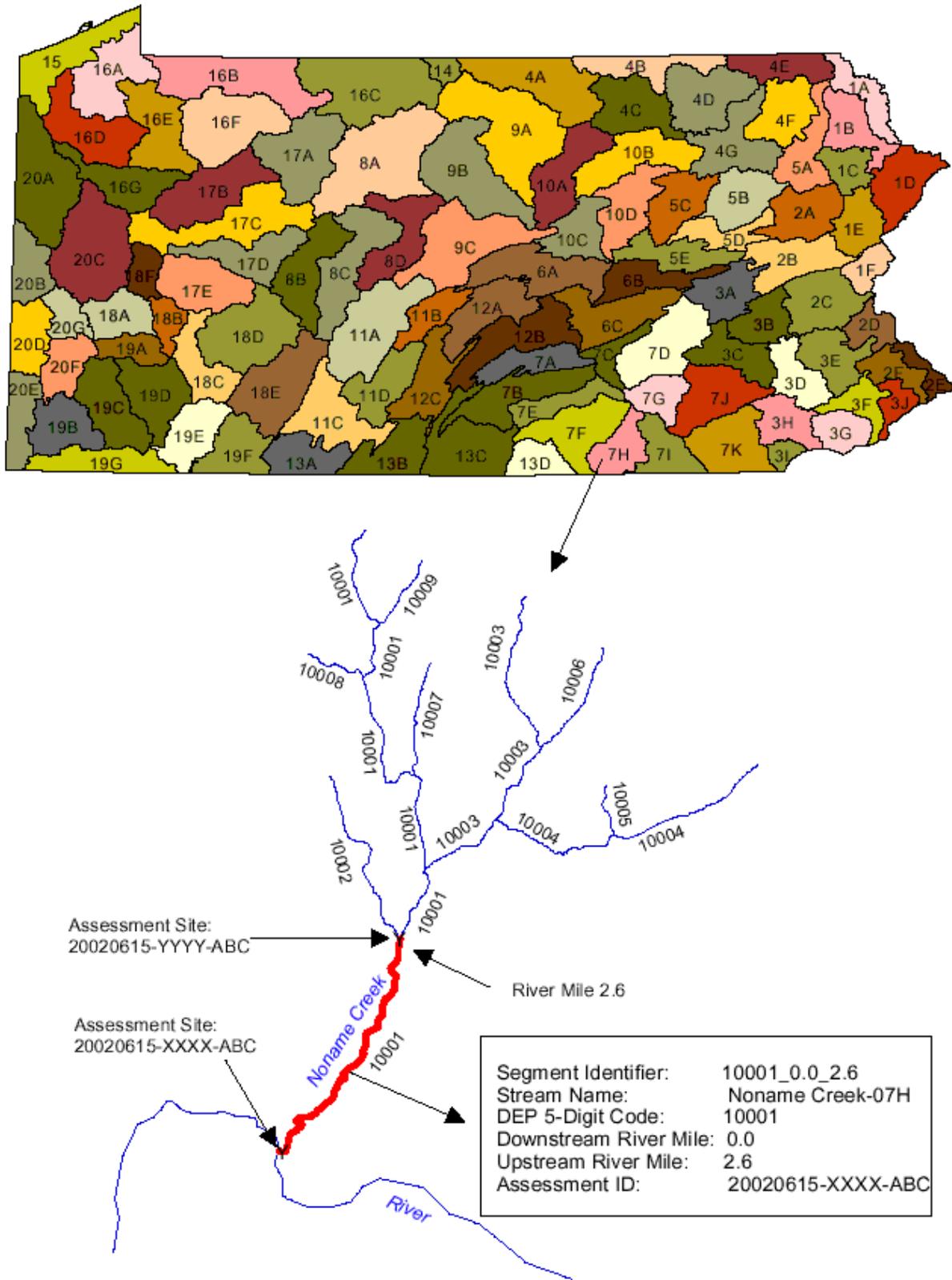


Figure 1. State Water Plan Watersheds and DEP's stream, segment , and assessment coding system

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

I.	Blank Forms.....	
•	Supplement 1 (Complaints)	
○	Complaint Handling and Problem Assessment Form.....	4
•	Supplement 2 (Inspection Report)_	
○	Nutrient Management Inspection Report	6
•	Supplement 3 (Status Reviews)	
○	On-site Status Review Report.....	8
○	Scheduling an on-site status review (optional letter).....	10
○	Satisfactory Status review follow up letter	12
•	Supplement 4 (Quarterly Reports)	
○	Quarterly Reimbursement Worksheet.....	14
○	Certification for Payment.....	15
○	Level 2 Quarterly Report.....	16
○	Level 2 Plan Approval Data.....	17
○	Manure Management Reporting.....	20
•	Supplement 5 (Record Keeping)	
○	Record Keeping Check List.....	24
○	Soil Test Record.....	25
○	Manure Sample Record.....	26
○	Manure Group Application Record.....	27
○	Field Crop Record.....	28
○	Pasture Uncollected Manure Record.	29
○	Manure Export Sheet.....	30
○	Summary of Manure Transfers.....	31
II.	Sample Letters	
•	Supplement 6 (Plan Withdraws)	
○	Withdraw from Review Acknowledgment.....	32
○	Nutrient Management Act Program Withdrawal – Grant Recipient	34
○	Nutrient Management Act Program Withdrawal – Non - Grant Recipient	35
○	Nutrient Management Act Program Withdrawal – CAO	36
•	Supplement 7 (Administrative Reviews)	
○	Sample Administrative Completeness Review Letter	38
○	Sample Administrative Incomplete Review Letter	40
•	Supplement 8 (Technical reviews)	
○	Sample Technical Review Letter Requesting Corrections to the Plan.	42
○	Sample Yearly Plan Submission or Plan Update Deficiency letter.....	44
•	Supplement 9 (Plan Approvals)	
○	Plan approval Letter for CAOs.....	46
○	Plan approval Letter for VAO.....	51
○	Action Letter – CD Review for another CD’s BOD action.....	56
•	Supplement 10 (Plan Disapprovals)	
○	Pre-disapproval Letter.....	58
○	Disapproval Letter	60
•	Supplement 11 (Yearly Plans)	
○	Yearly Plan Submission or Plan Update Acknowledgment letter	62

- Supplement 12 (Waivers)
 - Waiver Acknowledgment Letter..... 64
 - Waiver Approval..... 66
 - Waiver Disapproval..... 68
- Supplement 13 (Manure Storage Certification)
 - Waste Storage Facility (WSF) Certification..... 70
- Supplement 14 (Plan Review Guidelines)
 - Plan review guidance..... 71
- Supplement 15 (Nutrient Balance Sheets)
 - Nutrient Balance Sheet receipt Acknowledgment letter 89
- Supplement 16 (Plan Transfers)
 - Nutrient Management Plan Transfer (Owner/Operator letter)..... 90
- Supplement 17 (Plan Review Extensions)
 - Plan Review Timeframe Extension Request 92

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: _____

**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)**

<u>1. Nutrient Management Plan Implementation</u>	Yes	No	N/A
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"/>
<u>2. Record Keeping; Are the following records maintained at the operation?</u>			
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:

	<u>Yes</u>	<u>No</u>
Are there violations of Act 38 regulations?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, specific violations (indicate section number and letter above):

Are corrective actions needed?	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------------	--------------------------	--------------------------

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)

Date

Name¹
Address²
Address²

RE: SCHEDULING A NUTRIENT MANAGEMENT PROGRAM ON-SITE STATUS REVIEW

Dear Name¹

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 [Name⁵] 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.

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-xxxx³) by date⁴ to set up a date for the status review.

Sincerely,

Name⁶
Title⁷

Enclosures:

Blank copy of the Nutrient Management On-Site Status Review Report

cc: file
Author of NMP⁸
DEP if Operation is a CAFO

Supplement 3

Name¹ = Name of owner / operator

Address² = Mailing address of the owner / operator

Phone³ = District phone number and extension if applicable

Date⁴ = Date Status review is requested approximately 3 week from receipt of this letter

Name⁵ = Name of Conservation District

Name⁶ = Name of reviewer

Title⁷ = Title of reviewer

Author of NM Plan⁸ = Person who wrote current NMP.

Date

Name¹

Address²
Address²

RE: Nutrient Management Program On-site Status Review Follow-up Report

Dear Name¹

This letter is sent to you as a follow up to my [Date³] 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 maintain the records required for your animal operation under Act 38.

As a follow-up reminder, your current NMP will expire September 30, 20XX⁴.

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 Name⁵ County Conservation District by the recommended April 1, 20XX⁴ submission date. In doing so, this should help to insure your updated / amended plan will be in place by October 1, 20XX⁴ 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,

Name⁶
Title⁷

Enclosures:

Copy of the Nutrient Management On-Site Status Review Report

cc: file

Author of NM Plan⁸

DEP if Operation is a CAFO

**Pennsylvania Nutrient and Manure Management Program / Administrative Manual
October 2015**

Chapter 6 (Blank Forms and Sample Letters) - Page 12

Supplement 3

Name¹ = Name of operator

Address² = Mailing address of the operation

Date³ = Date status review was performed

20XX⁴ = Crop year plan expires

Name⁵ = Name of Conservation District

Name⁶ = Name of reviewer

Title⁷ = Title of reviewer

Author of NM Plan⁸ = Person who wrote current NMP.

Mail To: Michael Thomas
Bureau of Conservation and Restoration
P.O. Box 8555
Harrisburg, Pa 17105-8555

Mail to:
Mike Thomas
Bur. of Conservation and Restoration
POB 8555
Harrisburg, PA 17105-8555

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CONSERVATION AND RESTORATION

**NUTRIENT MANAGEMENT PROGRAM
DELEGATION AGREEMENT**

Quarterly Reimbursement Worksheet

(To be completed by Conservation District)

Conservation District _____

Agreement # _____

Quarterly Period: _____ to _____ 20_____

BUDGET WORKSHEET EXPENDITURES:

A. Salaries \$ _____

B. Benefits \$ _____

C. Travel Costs \$ _____

D. Equipment Costs \$ _____

E. Administrative Costs

_____	County	\$ _____

Administrative Subtotal \$ _____

F. Other/Miscellaneous (from approved budget)
_____ \$ _____

Total Reimbursable Expenditures (transfer this total to the "Certification for Payment" page) \$ _____

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CONSERVATION AND RESTORATION

**NUTRIENT MANAGEMENT PROGRAM
DELEGATION AGREEMENT**

CERTIFICATION FOR PAYMENT

Agreement # _____

(To be completed by Conservation District)

Address: _____ County Conservation District

Quarterly Period: _____ to _____ 20_____

TOTAL TO BE REIMBURSED BY THIS INVOICE \$ _____

I declare the above expenditures to be accurate

District Official Approval: _____ Date: _____

Title: _____

DEPARTMENT USE ONLY	
Symbol	_____ \$ _____
Program	_____
Approved for Payment:	
\$ _____	_____
	Bureau of Conservation and Restoration Date

ATTACHMENT H
 COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 BUREAU OF CONSERVATION AND RESTORATION

**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 _____

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	AEUs	Annual Manure Generated (Tons / Gallons)	Manure Test Date	Percent Solids	Percent Moisture	Total N	Ammonia N	Total P	Water soluble P (if available)	Total K

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
 _____ gallons

Unit 2: _____ cu. ft. or
 _____ gallons

VII. BMP Implementation Table

Practice Code	Units	Estimate Acres	Impl. Quarter	Impl. Year

PLAN APPROVAL DATA
DIRECTIONS

- I. Plan Approval Data (for each approved plan)
- a. Complete a separate Level 2 Plan Approval Data sheet for each operation that receives plan approval or withdraws from the program.
 - i. Plan withdrawals would include when the operator officially notifies the district that they no longer wish to participate or whenever the district has provided notice to the operator that the plan has expired and that they are official no longer participants in the program.
 - b. Provide a full formal name for the operation (e.g. full first names for people and include a middle initial, or the business name if that is the case, and the date the plan received official approval.
 - c. For plan withdraws, i.e. it is not revised, fill in the "Date Plan Withdrawn" on to a copy of the original and return a sheet with the withdrawal date with your quarterly report packet.
 - d. Provide the county code for the operation (i.e. Adams = 01 ... York = 67).
 - e. Include the CAFO Site Name, if that is applicable.
 - f. State whether the operation is a CAO, and whether the operation is under an agreement with the Chesapeake Bay Program.
 - g. Fill in the Watershed Code including the number and letter (see the coded state map in Administrative Manual Appendix), and whether the operation is in a special protection watershed.
 - h. Fill in the plan author and certification number and plan reviewer and certification number.

II. List the owned and rented acres that are included in the plan. Nutrient Application Acres includes pasture and crop acres. Total Plan Acres would also include farm buildings, manure storage facilities, and animal concentration areas along with the Nutrient Application Acres.

III. Fill in the animal manure information that includes general animal type, AEUs, total manure generated per year and the test results from the manure analysis, which are part of the approved NMP or amendment. This information will be taken from Appendix 3 of the approved NMP or amendment.

IV. List imported manure by animal type and tons per year imported.

V. List exported manure by NBS or broker name, acres applied to (if known), manure type, tons or gallons exported, receiving county (in or out of state, if known), receiving state, and if it is sent out of the Chesapeake Bay Watershed (yes or no).

VI. Provide the designed manure storage capacity in cubic feet or gallons.

VII. Provide BMP implementation information using the practice codes listed in NRCS Soil and Water Conservation Technical Guide. Provide the number of units planned to be installed and make an estimate of the number of acres to be treated by the installed practice. Fill in the planned quarter and year of implementation.

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 attending (all outreach activities):

II.

Number of MMP training activities: _____

Provide a short description of each training activity:

- Number of farmers attending (all training activities): _____
- Number of private sector planners/consultants attending (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:

MANURE MANAGEMENT REPORTING (Chapter 91)

DIRECTIONS

This reporting is to cover the Chapter 91 activities that are contained in the Nutrient and Manure Management Delegation Agreements.

These required reports are separate from, and in addition, to the E-commerce reimbursement and its report.

Submit an “Attachment G” for each quarterly period.

Outreach and Training Activities do not have to be separate or distinct events just on MMPs; these activities can be joint events on other Nutrient Management Issues such as Act 38 or NRCS 590.

- I. Provide the number of outreach activities that include MMP activities and a short description or title for each activity. Provide a number for the farmers attending, and then the planners/consultants attending.
- II. Provide the number of training activities that included MMP activities and a short description or title for each activity. Provide a number for the farmers attending, and then the planners/consultants attending.
- III. Provide numbers on the assistance that the District provided for:
 - on-farm assistance such as general orientation, reviews or inventories; or technical assistance on MMPs;
 - MMP voluntary verifications; and
 - district developed MMPs.

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

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: _____ P₂O₅: _____ K₂O: _____

(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.

Withdrawal from Review Acknowledgment

Date: _____

Operators (and/or Planners) Name¹
Operators (and/or planners) Address²
Operators (and/or planners) Address²

Re: Withdrawal of _____ [NMP Name] NMP

Dear _____ (Operator or Planners name¹),

The _____ [Name³] County Conservation District formally acknowledges receipt of your email/ letter [Choose] dated _____ [Date⁴] 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 _____ [Date⁵].

If there are any questions, call our office at _____ [Phone⁶].

Sincerely,

Name⁷

Title

Name³ County Conservation District

Cc: **Planner or Operator (Whomever the letter is not addressed to)**
DEP if Operation is a CAFO

Operators (and/or Planners) Name¹ – This will depend on whom submitted the written request to pull the NMP from review

Operators (and/or planners) Address² - This will depend on whom submitted the written request to pull the NMP from review

Name³ – Your conservation District Name

Date⁴ – Date you receive the correspondence

Date⁵ – 30 days after this letter is sent

Phone⁶ – Your office phone number

Name⁷ - Your Name

Nutrient Management Act Program Withdrawal
Act 6/Act 38 Volunteer

Grant Recipient

Date _____

_____ County Conservation District
District Address

Dear District Chairman,

Effective immediately, I wish to formally withdraw from participation in the PA Nutrient Management Act Program (Program).

As a Nutrient Management Plan Implementation Grant Program recipient, I understand that I must continue to implement my currently approved Nutrient Management Plan and maintain the BMPs funded by the State Conservation Commission (Commission) on my operation until _____, which is 10 years from the date that the last Commission-funded BMP was completed.

I further understand that, beginning on the date of this letter, I immediately forfeit the limited liability protection that has been provided by the Commission, as well as my eligibility to receive any additional funding from any Nutrient Management Act financial assistance programs, until I again develop an approved nutrient management plan under the Program.

Sincerely,

_____ (Signature)

_____ (Name - Printed or Typed)

_____ (Operation Name)

Nutrient Management Act Program Withdrawal
Act 6/Act 38 Volunteer

Non-Grant Recipient

Date _____

_____ County Conservation District
District Address

Dear District Chairman,

Effective immediately, I wish to formally withdraw from participation in the PA Nutrient Management Act Program (Program).

I understand that, beginning on the date of this letter, I immediately 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)

Sample - Nutrient Management Act Program Withdrawal CAO

Date

(Name¹) County Conservation District
Address
Address

RE: Withdrawal from Nutrient Management Act Program

Dear District Chairman,

Effective (Date²), (Operator's Name³) (Farm Name if applicable⁴) located at (Address⁵) wishes to formally withdraw from participation in the PA Nutrient Management Act Program (Program) as a Concentrated Animal Operation (CAO). (Operators Name³) requested I perform the Concentrated Animal Operation (CAO) calculation to determine if the operation is eligible to withdraw from the Program. On (Date⁶) 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 (Date⁶) 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 Name³) attest the information provided to (Plan Writer Name⁷) 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 (date²), 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 Signature³) _____
(Operator Name (Printed or Typed³) _____
Title _____

(Mailing Address of operation⁹) _____

District¹ = Conservation District Name

Date² = Effective Date when operation will no longer be regulated under Act 38, may be immediately

Operator's Name³ = 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 Name⁴ = Name of farm if applicable / name used in latest NMP

Address⁵ = Location of farm

Date⁶ = Date site visit was made to verify new animal and acreage numbers

Name⁷ = Certified Nutrient Management Specialist's Name who verified the CAO calculations

Address⁹ = Mailing address of operation if different from location of farm

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 [Name¹] Nutrient Management Plan

Dear Mr. / Mrs. / Ms. [Name¹]:

The [Name²] County Conservation District (___ CCD, or District [Name²]) received the proposed Nutrient Management Plan (NMP or plan) on [Date³], for your animal operation located at [Address⁴]. [Name²] 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 [Name²] 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 [Name⁵]
[Name²]
Title

cc: Author of plan
File

DEP if Operation is a CAFO

Name¹ = Name on NMP: operator's and / or farm name. **Administrative complete letters must be addressed to operator (not planner). Planner is copied.**

Name² = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date³ = 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)

Address⁴ = Site address (minus the state and zip code)

Name⁵ = 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 **[Name¹]** Nutrient Management Plan

Dear Mr. / Mrs. / Ms. **[Name¹]**,

The **[Name²]** County Conservation District (___ CCD, or District) received the proposed Nutrient Management Plan (NMP or plan) on **[Date³]**, for your animal operation located at **[Address⁴]**. **[Name²]** 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. (Page # ___) and list the first issue
2. (Page # ___) and the second issue, etc.
3. (Page # ___) and list issue, etc.

The **[Name²]** 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 **[Name²]** Conservation District requests you resubmit your Act 38 NMP by **[date⁵]**. Please expedite your planning efforts in meeting this timeframe.

Once an administratively completed plan is received at the **[Name²]** CD office, staff will perform a technical review of your plan. The **[Name²]** CD office is required to take an action within 90 days from the receipt of an administratively completed plan.

I am [or Name² (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 *[Phone⁶]*.

Sincerely,

[Name⁷]

[Name²]

Title

cc: Author of plan

File

Name¹ = Name on NMP operator's and / or farm name. Administrative in complete letters must be addressed to operator (not planner). Planner is copied.

Name² = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date³ = 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)

Address⁴ = Site address (minus the state and zip code)

Date⁵ = 30 days after sending the administratively incomplete letter

Phone⁶ = CD phone number

Name⁷ = 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 **[Name¹]** Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. **[planner's name]**,

The **[Name²]** County Conservation District (__ CCD **[Name²]**) received the initially proposed Nutrient Management Plan (NMP, or plan) for the **[Name¹]** animal operation located at **[Address³]**, on **[Date⁴]**. The NMP was deemed administratively complete at that time **[or list date if admin completeness was met at a later date]**. **[Name²]** received your most recent revision to the plan on **[Date⁵]**. 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: **[Comments⁶]**

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. In addressing the above items, please keep in mind that NMPs need to be in the **[Name²]** office *in final form* **at least** 7 days before they are acted upon. **[Name²]**'s upcoming Board of Director's meetings are scheduled for **[Date⁷]** and **[Date⁸]**.

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 [Name⁸]
[Name²]
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*)

Name¹ = 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 (do 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.***

Name² = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address³ = Site address (minus the state and zip code). Since planners often work in several counties, adding county name would be helpful and appropriate.

Date⁴ = Date you received the initial NMP (if no later version, remember to write this on the NMP's cover page)

Date⁵ = Date of most recently received version of the NMP. (Don't forget to write this on the NMP's cover page)

Comments⁶ = Comments need to be clear and specific, and with enough detail that the planner clearly understands what you are asking of them.

Date⁷ = Date of first upcoming BOD meeting

Date⁸ = Date of second upcoming BOD meeting

Name⁹ = 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) [Date⁴] was approved on [Date⁵]. On [Date²] [Name¹] 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 [Address³]. This **Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted]** seeks to extend your current NMP approval through crop year [Date⁶], expiring on (Date⁷).

[Name¹] 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.

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 (date⁷) **[May be eliminated if a plan amendment is not needed].**

1. Greater than 10% Increase in animal numbers
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 for an individual year.

3. Change in excess manure utilization arrangements as described in the approved plan. Example manure exported to broker instead of exported to known landowners.
4. Added additional importers not previously listed since the last approved / amended NMP
5. If a BMP is added, changed or deleted from the previously approved NMP Implementation Schedule
6. If after 3 years actual yields are less than 80% of the expected yields for crops.
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, or results in a +/- 10% change in nutrient content requiring a change in manure application rates under § 83.293 (relating to determination of nutrient application rates). *[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,

Name⁸

Name²

Title

cc: Author of plan

Michael Aucoin, SCC (if author is provisionally certified)

Name¹ = your conservation district name, first written out, then abbreviated thereafter (ex.

Adams County Conservation district (ACCD)

Date² = Date yearly plan submission or plan update was received by the CD

Address³ = Site address (minus) the state and zip code)

Date⁴ = Crop year for which current NMP was planned (October, 20____ - September 30, 20____)

Date⁵ = Date your BOD took action on the current approved NMP.

Date⁶ = Crop year planned under submitted yearly plan submission or plan date update.

Date⁷ = Date yearly plan submission or plan update will expire. End of last crop year covered in plan. September 30, 20____)

Name⁸ = preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.

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 [*Name¹*] County Conservation District (___ CCD, or District [*Name¹*]) received the proposed Nutrient Management Plan (NMP) in its final form on [*Date²*] for your animal operation located at [*Address³*]. 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 [*Name¹*] Board of Directors at their [*Date⁴*] meeting.** Your newly approved [NMP, Plan Amendment, or Update] will expire on [*Date⁵*], 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 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 yearly plan submissions (either Amendments or Updates) must be submitted to the [Name¹] prior to the beginning of the next crop year (October 1ST) 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 *[Name¹]*, 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 [BMP⁶];***
 - 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 blank *Manure Export Sheet*;
 - 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);
 - 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 [Name¹]. ***[Delete this paragraph for farms not exporting manure, or for those farms exporting for reasons other than for Ag land application.]***

- 7) Participate in Annual Status Reviews. Nutrient management program staff from the Commission, or [Name¹], 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 [Name¹] 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 [Date⁷].

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 [Name¹] 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 [Name⁸] at (____) ____-____. I will be glad to provide any additional assistance.

Sincerely,

John Doe [Name⁸]
[Name¹]
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

Name¹ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date² = Date plan was deemed to be in final form

Address³ = Site address (minus the state and zip code)

Date⁴ = Date your BOD took action on the plan

Date⁵ = Date plan will expire (most likely September 30 of the last crop year planned)

BMP⁶ = list BMP name, location, and implementation timeframe as they appear in the plan

Date⁷ = This date will either be the same as Date⁵ (for 3-year plans) or within 3 years of plan approval (for 1-year plans)

Name⁸ = 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 [*Name¹*] County Conservation District (__ CCD, or District [*Name¹*]) received the proposed Nutrient Management Plan (NMP) in its final form on [*Date²*] for your animal operation located at [*Address³*]. 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 [*Name¹*] Board of Directors at their [*Date⁴*] meeting**. Your newly approved [NMP, Plan Amendment, or Update] will expire on [*Date⁵*], 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 [Name¹] prior to the beginning of the next crop year (October 1ST) 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 *[Name¹]*, 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 [BMP⁶];***
- 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 blank *Manure Export Sheet*;
 - 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);
 - 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 [Name¹]. *[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 [Name¹], 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 [Name¹] 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 [Date⁷].

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 [Name⁸]

[Name¹]
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

Name¹ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date² = Date plan was deemed to be in final form

Address³ = Site address (minus the state and zip code)

Date⁴ = Date your BOD took action on the plan

Date⁵ = Date plan will expire (most likely September 30 of the last crop year planned)

BMP⁶ = list BMP name, location, and implementation timeframe as they appear in the plan

Date⁷ = This date will either be the same as Date⁵ (for 3-year plans) or within 3 years of plan approval (for 1-year plans)

Name⁸ = 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 Name¹

CD Address²

CD Address²

Re: Action (Approval or Disapproval) [select] of _____ [NMP Name] NMP

Dear _____ (CD Chairpersons name¹),

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 _____ [Phone⁴].

Sincerely,

Name⁵

Title

Name³ County Conservation District

Cc: Planner

CD Chairperson Name¹ – This is the chair of the CD that will be acting on the NMP

CD Address² – Address of CD acting on the NMP

Name³ – Your conservation District Name

Phone⁴ – Your office phone number

Name⁵ - Your Name

SAMPLE PRE DISAPPROVAL LETTER

Date _____

CERTIFIED MAIL NO. _____

Operator Name [Name¹]
Farm Name (if used in NMP)
Operator address
Operator address

Re: Status of submitted [Name¹] Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. [Name¹],
The [Name²] County Conservation District (__ CCD [Name²]) received the initially proposed Nutrient Management Plan (NMP, or plan) for your animal operation located at [Address³], on [Date⁴]. [Name²] also received subsequent submissions or versions of that plan on [Date⁵], 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. _ [Reference⁶]

- 2.

Should you have any questions regarding the above deficiencies, please contact [Name⁷] 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 [Name⁷]
[Name²]
Title

cc: Author of plan
File

Name¹ = Name on NMP: Operator's and/or Farm name. **NMP Pre-disapproval Letters must be addressed to operator (not planner). Planner is copied.**

Name² = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address³ = Site address (minus the state and zip code)

Date⁴ = Date initial plan submission was received (most likely not in final form)

Date⁵ = Dates subsequent versions to the initially submitted plan were received (but not yet in final form). List each revision.

Reference⁶ = Listed deficiencies need to be clear and specific, and with enough detail for the planner to clearly understand what still needs to happen.

Name⁷ = 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 **[Name¹]**
Farm Name (*if used in NMP*)
Operator address
Operator address

Re: Disapproval of submitted Nutrient Management Plan (NMP)

Dear Mr. / Mrs. / Ms. **[Name¹]**,
The **[Name²]** County Conservation District (__ CCD **[Name²]**) received the latest version of proposed Nutrient Management Plan (NMP, or plan) on **[Date³]** for your animal operation located at **[Address⁴]**. Please be advised that the **[Name²]** 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 **[Reference⁵]** 83._____, 83._____, 83._____ of Chapter 83 for the following reasons:

1. **[Comments⁶]**

2. **[Comments⁶]**

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,

John Doe [*Name⁷*]
[*Name²*]
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
DEP if Operation is a CAFO

Name¹ = Name on NMP: Operator's and/or Farm name. **NMP Disapproval Letters must be addressed to operator (not planner). Planner is copied.**

Name² = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Date³ = Date last version of submitted plan was received (most likely not in final form)

Address⁴ = Site address (minus the state and zip code)

Reference⁵ = Reasons for disapproving the plan need to be supported by references out of the Act, or the regulations.

Comments⁶ = Comments need to be clear and specific, and with enough detail that the planner clearly understands what you are asking of them.

Name⁷ = 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 [Name¹] County Conservation District (__ CCD, or District [Name¹]) received the proposed Nutrient Management Plan (NMP) Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted] on [Date²], for your animal operation located at [Address³]. Your current approved NMP (planned for crop year (s) [Date⁴] was approved on [Date⁵]. This Yearly Plan Submission or Plan Update [CD chose the appropriate document submitted] seeks to extend that NMP approval through crop year [Date⁶]. This yearly plan submission or plan update [CD chose the appropriate document submitted] will expire on (Date⁷).

[Name¹] 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 (Date¹¹), 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 (Date⁹). 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 [Date²] 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 [Name¹⁰], at (____) ____ - ____ and I will be glad to provide any additional assistance.

Sincerely,

John Doe [Date¹⁰],
[Date¹], 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

- Name¹ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))
- Date² = Date yearly plan submission or plan update was received by CD
- Address³ = Site address (minus the state and zip code)
- Date⁴ = Crop year for which current NMP was planned (October, 20____ - September, 20____)
- Date⁵ = Date your BOD took action on the current approved NMP
- Date⁶ = Crop year planned under submitted yearly plan submission or plan update
- Date⁷ = Date yearly plan submission or plan update will expire. Beginning of next crop year (October 1, 20____) needing to be planned.
- Date⁹ = Date will be 3 years from NMP approval (Date⁵)
- Name¹⁰ = Preferably this would be the reviewer of record. However, it could also be a district manager, or board chairman.
- Date¹¹ = Date of original plan approval letter

*Make sure to include enclosures

SAMPLE WAIVER ACKNOWLEDGEMENT LETTER

Date:

Operator Name [Name¹]
Farm Name (*if used in waiver request*)
Operator address
Operator address

Re: Manure storage setback waiver for [Name¹] animal operation

Dear: Mr. / Mrs. / Ms. [Name¹]:

On [Date²] the [Name³] County Conservation District (__ CCD [Name³]) 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 [Name³]. 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.

[Name³], 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 20 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 [Name⁴]
[Name³]
Title

Cc: DEP if Operation is a CAFO
Planner
File

Name¹ = Name on Waiver application: Operator's and/or Farm name.

Date² = Date District received operator's written request for a waiver

Name³ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Name⁴ = 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 [Name¹]
Farm Name (*if used in waiver request*)
Operator address
Operator address

Re: Manure storage setback waiver for [Name¹] animal operation

Dear: Mr. / Mrs. / Ms. [Name¹]:

On [Date²] the [Name³] County Conservation District (__ CCD [Name³]) 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 [Address⁴], in _____ Township, _____ County was visited and evaluated on [Date⁵] by [Name³] in conjunction with staff from the State Conservation Commission (SCC), and/or USDA's Natural resource Conservation Service (NRCS).

After thorough review, [Name³] 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 [Name⁶]
[Name³]
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

Name¹ = Name on Waiver application: Operator's and/or Farm name.

Date² = Date District received operator's written request for a waiver

Name³ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address⁴ = Site address (minus the state and zip code)

Date⁵ = Date district & NRCS made site visit to proposed project site

Name⁶ = 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 [Name¹]
Farm Name (if used in waiver request)
Operator address
Operator address

Re: Manure storage setback waiver for [Name¹] animal operation

Dear: Mr. / Mrs. / Ms. [Name¹]:

On [Date²] the [Name³] County Conservation District (__ CCD [Name³]) 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 [Address⁴], in _____ Township, _____ County was visited and evaluated on [Date⁵] by [Name³] in conjunction with staff from the State Conservation Commission (SCC), and/or USDA's Natural Resource Conservation Service (NRCS).

After thorough review, [Name³] 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 [Name⁶]
[Name³]
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

Name¹ = Name on Waiver application: Operator's and/or Farm name. **Disapproval Letters need to go to operator (not planner).** Planner is copied

Date² = Date District received operator's written request for a waiver

Name³ = Your conservation district name, first written out, then abbreviated thereafter (ex. Adams County Conservation District (ACCD))

Address⁴ = Site address (minus the state and zip code)

Date⁵ = Date district, NRCS, and/or SCC made site visit to proposed project site

Name⁶ = 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 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.
- 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 (date).
- Include complete and appropriate manure equipment calibration information.
- Have no known issue that would stall the technical review of the plan.

Cover Page

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 will be submitted (not for review or 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.

- Determine that a separate Excel document was used to plan each crop year. Using one Excel document to plan multiple crops 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.
- 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.

Date of Plan Submission

- 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.

Date(s) of Plan Update Submissions

- 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.
- 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?
 - 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.

Animal Equivalent Units

- This number is calculated from data input in Appendix 3 of the spreadsheet.

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 differences that you would expect to see in the plan itself.

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:
 - Does the "Whole Farm Note" box in the NMP Summary contain the required standard note detailing what the farmer is to do if the planned manure is not applied to a particular field? See NM Technical Manual; NMP Summary; page 2.
 - 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 first of two data entry parts of the NMP Summary.
 - Ensure that each nutrient application summary chart only addresses one crop year.
- Notes – This is the second of two data entry parts of the NMP Summary.
 - Ensure that pastures and winter applications have "Yes" selected in the CMU/Fields.

NMP Summary Notes

- Ensure that pastures and winter application CMU/Fields have the required information included in the notes.
- 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 on-site 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 there 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 in particular 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 on-site 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 stacked on an improved stacking pad.
- If the operation will be storing liquid or semi-solid manure over the winter, this section of the plan could (but is not required to) indicate the usable storage height and usable storage volume in the storage facility on December 15 in order to demonstrate that the operation will have adequate storage space to get thru the winter storage period.

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).

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 soils 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. In particular compare the following for consistency:
 - NMP Summary Table (manure groups, application seasons, pastures & uncollected manure)
 - NMP Summary Notes (pasture/grazing 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. Ensure, for manure groups using the

one year variance, 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 is current within one year. After approval of the initial plan, manure tests are required to be taken annually for each manure group and the analysis values used should be based on the running average as outlined in the Nutrient Management Program Technical Manual.
- Ensure that the manure analysis dates are consistent with the manure sampling procedures outlined in Appendix 2.
- 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, 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

Pennsylvania Nutrient and Manure Management Program / Administrative Manual
October 2015

Chapter 6 (Blank Forms and Sample Letters) - Page 80

- 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 or split applications.

- Note: when using multiple applications there will be (should be) no final nutrient balance until the final application.
- 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?

Make an initial check for the use of double crops.

- Note: planning for double crops should treat the crops separately and must make the initial selection between winter and summer double crops.
- Ensure that the N carryover is actually occurring.

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** – Are recommendations from soil test analysis results and not on crop removal values? If soil tests are from Spectrum Analytic, check that recommendations are consistent with Penn State AASL recommendations. This consistency 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?
- **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** – The P Index Value can be verified in both Appendix 4 and Appendix 5. Are there values where necessary (boxes unshaded)? Are there any “PI Incomplete” notes? This message

indicates that one or more P Index transport factors have not been entered in Appendix 5 and rows 25, 26, 27, 28 and 30 in Appendix 5 should be checked.

- **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?
- Refer to lines 32 and 46 to ensure that there are no messages indicating that the source or transport factors need to be reviewed.

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

Pennsylvania Nutrient and Manure Management Program / Administrative Manual

October 2015

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 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

- The P Index Value can be verified in both Appendix 4 and Appendix 5. In Appendix 5 check row 32 labeled "P Index Value". The following messages may be seen in this row:
 - "Check Source Info": This message means neither the manure application method nor fertilizer application method has been completed. Check rows 16, 25, and 33 in Appendix 4.
 - "Check Manure Info": This message means the manure application method has not been completed. Check row 25 in Appendix 4.
 - "Check Fert. Info.": This message means the fertilizer application method has not been completed. Check rows 16 and 33 in Appendix 4.

Row 46 labeled "P Applied at Calculated Maximum Rate (lb. P₂O₅/A)"

- Error messages will also be displayed here and row 46 can be checked if additional information is needed. This row should only be checked to determine if the field is receiving multiple applications of manure and/or fertilizer or if the messages listed in Appendix 4 and row 32 above are not providing sufficient information. The following messages may be seen in this row:
 - "Review Source": This message means one or more P Index source factors have not been entered correctly in Appendix 4. Check row 29 "P Index Value" for more detailed information about identifying the incomplete information.
 - "Enter Transport": This message means one or more P Index transport factors have not been entered in Appendix 5. Check rows 25, 26, 27, 28 and 30 in Appendix 5.
 - "Multiple Applic.": This message means the field is planned to receive multiple applications of manure and/or fertilizer. This can be verified by referring to row 36 in Appendix 4 or by referring the NMP Summary.

Appendix 6

General Appendix 6 Guidelines

**Pennsylvania Nutrient and Manure Management Program / Administrative Manual
October 2015**

Chapter 6 (Blank Forms and Sample Letters) - Page 84

- 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: “Scrap 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 PaPlants 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 (1, 2 or 3 years depending on banking).
 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 are under 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)

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?
- Is there a Conservation or Ag E&S Plan (required for NMP approval)? Is the NMP consistent with the conservation plan?

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
 - 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 _____

Broker Name¹

Address²

Address²

RE: Acknowledging Receipt of Nutrient Balance sheets

Dear Broker Name

This letter acknowledges receipt of the following Nutrient Balance Sheets (NBS) that were received at the (Name³) County Conservation District on (Date⁴). 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 Name	Exporter Address	County, State	Manure Type	Crop Group

If you have any comments or questions please feel free to contact me at (XXX)-XXX-XXXX⁵

Sincerely,

Staff Person⁶

Title⁶

cc: File

¹- Certified Broker who wrote and submitted the nutrient balance sheets

²- Address of Broker who wrote and submitted the nutrient balance sheets

³- Name of the conservation district that received the nutrient balance sheets

⁴- Date nutrient balance sheets were received at the conservation district

⁵- Phone number of conservation district person who received and filed the nutrient balance sheets

⁶- Name and title of person who received and filed the nutrient balance sheets

LETTER TRANSFERRING AN APPROVED NUTRIENT MANAGEMENT PLAN

Date

[Name¹] 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 [address³] and having an approved Nutrient Management Plan (NMP) on file there at the [Name1] County Conservation District under the name of [Name²] that the operation will be sold / transferred to name⁴ effective on or about date⁷. Mr. / Mrs. / Ms.' [Name⁴] [address⁵] and [phone number⁶] 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 [Date⁷] I will be transferring my [category⁸] current NMP, approved [date⁹] for crop years 20XX to 20XX to name⁴.

Sincerely,

[Signature²]: _____ Date: _____
[Name²] (typed or clearly printed): _____
Title of signatory: _____

I [Name⁴] 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, [20XX¹¹] for the operation to remain in

compliance with Act-38 regulations. The NMP will need to be submitted to [Name¹] County Conservation District or the Commission on or before April 1, [20XX¹¹].

Sincerely,

[Signature⁴]: _____ Date: _____

[Name⁴] (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 [Name⁴] 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 [Name¹] CD on or about [Date¹⁰] meeting the requirements of § 83.371 Plan Transfers (a).

Sincerely,

[Signature⁴] _____ Date: _____

[Name⁴] (typed or clearly printed) _____

Pc: File

DEP if CAFO

Name¹ = County Conservation District name, written out first time than abbreviated thereafter

Name² = Current operator's name

Address³ = Current operator's address

Name⁴ = New operator's name

Address⁵ = New operator's address

Phone⁶ = New operator's phone number

Date⁷ = Date operational control to be transferred

Category⁸ = Type of operation: Concentrated Animal Operation (CAO) or Concentrated Animal Feeding Operation (CAFO) or Volunteer Animal Operation (VAO)

Date⁹ = Date plan was last board approved

Date¹⁰ = Date of plan submission to the conservation district / Commission

20XX¹¹ = Date of new crop year, October 1, 20XX

**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. Date NMP was received at the CD for review: _____
2. Date administrative completeness review was completed on NMP: _____
3. Date formal admin review letter was sent to operator/plan writer: _____
4. If a CAFO, date NMP appeared in the PA Bulletin: _____
5. If a CAFO, date that the 30 day PA Bulletin Notice expires: _____
6. Date technical review was performed: _____
7. Date the on-site farm visit was performed: _____
8. Date(s) comments/deficiencies were sent to operator / plan writer: _____
9. Date of plan writer's most recent revisions were received at CD:

10. Date of the last board meeting prior to the end of the first 90 day review time frame:

11. Last day CD can accept revisions to the submitted NMP prior to board meeting (that meets the first 90 day time frame): _____
12. Dates of future board meetings after the first 90 day time frame has expired:

13. Any issues or items encountered during the review that CD feels delayed the review process:

14. Other items which CD has encountered with the review of the submitted NMP that have caused the delay:

15. 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...:

16. Length of extension requested: _____

17. Anticipated board meeting date when action will take place on NMP: _____

Person Requesting Extension: _____

Signature: _____

Date: _____

Chapter 7

RECORD OF CHANGES