

Agricultural Advisory Board
February 16, 2005

Update on CAFO/Other Agricultural Operations Regulations

Below is a list of changes being considered as a result of public comments received during the public comment period, including those submitted by the Agricultural Advisory Board. These changes must undergo review by a variety of other entities, including the Independent Regulatory Review Commission, the Environmental Quality Board, the House and Senate Agricultural committees, the Environmental Protection Agency, and DEP upper level management. Therefore, these revisions may undergo further change during the regulatory review process.

Manure Storage Facilities

~~§91.1 *Manure Storage Facility*—A permanent structure or facility pond, a portion of a structure or facility pond, or a group of structures or facilities ponds, at one agricultural operation, utilized for the purpose of containing manure.~~

~~§91.1 *Manure storage capacity* – the total volume in gallons of a manure storage facility, less any required freeboard, sufficient to contain all of the following: accumulated manure and wastewater during the storage period; normal precipitation less evaporation on the surface of the facility; normal runoff during the storage period; the design storm precipitation and runoff (25 year or 100 year, as appropriate); and residual solids after liquids have been removed.~~

~~§91.36(a)(5) For a liquid or semisolid manure storage facility, the following minimum freeboard requirements apply and shall be maintained:~~

- ~~(i) For an agricultural operation with over 1,000 AEUs that was a new or expanded operation after January 29, 2000, a minimum 24-inch freeboard, except for enclosed facilities that are not exposed to rainfall, which must have a minimum freeboard of 6 inches.~~
- ~~(ii) For all other facilities, as follows: the freeboard requirements
 - ~~A. Earthen waste storage ponds, a minimum 12-inch freeboard, as described in the Manure Management Manual and the Pennsylvania Technical Guide, shall apply.~~
 - ~~B. For all waste storage structures containing animal wastes, a minimum 6-inch freeboard, as described in the Pennsylvania Technical Guide.~~~~

~~§91.36(a)(7) – The Department may require an individual or general water quality management permit for any manure storage facility, based on relevant criteria such as proximity to special protection waters or impaired waters under Chapter 93, or the risk of pollution—as necessary to protect special protection waters, or to~~

restore waters impaired by agricultural sources and listed on Pennsylvania's integrated list under Section 303(d) of the Clean Water Act. The Department may describe construction and operation criteria which are acceptable to the Department in the Manure Management Manual, and which can be implemented in lieu of obtaining a permit under this subsection.

§92.5a(d)(1) ...The plan shall include a stipulation that all manure stockpiled for 15 days or longer at a CAFO must be covered and/or contained to prevent any discharge to surface or groundwater up to and including the design storm event for that animal type as described in § 91.36(a)(4)...

Setback and Buffers:

~~§91.36(b)(2)- Appropriate vegetated buffers and setbacks established by the Department shall be followed to protect and maintain water quality. The Department may require an individual or general water quality management permit, for any operation as necessary to protect special protection waters, or to restore waters impaired by agricultural sources and listed on Pennsylvania's integrated list under Section 303(d) of the Clean Water Act. The Department may describe additional land application practices which are acceptable to the Department in the Manure Management Manual, such as nutrient management plans, and which can be implemented in lieu of obtaining a permit under this subsection.~~

§92.1 *Setback* -- A specified distance from the top of the bank of surface waters, or from potential conduits to surface waters, where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.

CAFO definition:

§92.1 *CAFO--Concentrated animal feeding operation*--A CAO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, ~~any agricultural operation with a discharge to surface waters that is authorized by Department permit limits or conditions, or~~ any agricultural operation defined as a large CAFO under 40 CFR 122.23(b)(4) (relating to concentrated animal feeding operations) ~~or any other agricultural operation designated as a CAFO by the Department based on risk of pollution of surface waters using relevant criteria such as the size, location and management plan of the operation.~~ An operation that has a discharge that is not authorized under the Clean Streams Law and meets the definition of either a medium or a small CAFO under 40 CFR 122.23

(b)(6) or 40 CFR 122.23 (b)(9), respectively, is considered to have an illegal discharge and is subject to enforcement action under the Clean Streams Law.

§92.5a.(d)(5) When applicable, the design plans and specifications for treatment facilities that would include a treated wastewater discharge.

92.5a.(e)(6) When applicable, the prescribed effluent limits and conditions to meet water quality standards for treated wastewater discharges described pursuant to §92.5a(d)(5).

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