

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Environmental Quality Programs 1-EQ (Revision 3)	Amendment 2
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Approved by: Acting Administrator



Amendment Transmittal

A Reasons for Amendment

Subparagraph 4 D has been amended to:

- clarify applicant responsibility for costs of specialized surveys, assessments, plans, and permits
- provide more detailed guidance regarding applicant responsibility for providing detailed plans and project information
- expand and clarify guidance related to nutrient management for livestock operations.

Subparagraph 53 D has been amended to clarify that a NMP or CNMP, as appropriate, is required consistent with State regulatory and permitting agencies.

Page Control Chart		
TC	Text	Exhibit
	1-15 through 1-18 4-73 through 4-76	

4 Roles and Responsibilities (Continued)

C State Level (Continued)

- **SECs (Continued)**

- compile, distribute, and maintain a State Environmental Guide (SEG) to supplement information in this handbook, 2-EQ, and 7 CFR Part 799.

Notes: SEG's and all related amendments and notices shall be submitted to NECM for review and approval

At a minimum SEG's shall include:

- State policies, strategies, and processes established for completing environmental reviews and assessments
- State and local information and requirements, including related guidance, essential for completing environmental reviews and assessments. Including but not limited to:
 - specific state or local permitting or plan requirements and processes
 - examples of prevalent State or regional wetland vegetation
 - State and local resources and contact information
- examples and/or completion instructions for state and local forms, checklists or workflows used in that State as part of the environmental review process.
- SEGs should not duplicate this handbook, but instead supplement it with State-specific EC needs.

4 Roles and Responsibilities (Continued)

D Applicant or Producer Responsibilities

Applicants or producers seeking to participate in FSA programs must:

- contact appropriate FSA personnel about environmental compliance early in the planning process when it appears FSA financial or program assistance may need to be considered
- consider the potential environmental impacts of their requests at the earliest planning stages
- develop actions that minimize the potential to adversely impact the environment
- agree not to initiate or undertake project actions pending completion of all NEPA and environmental processes
- as needed, participate in a scoping (kick-off) meeting (Exhibit 15) with FSA to coordinate and review the requirements and processes for completing the environmental review
- provide necessary information for FSA to complete the requisite level of environmental review of their proposal's potential environmental impacts and bear related costs
 - *--for specialized surveys, plans or permits which may be necessary, including but not limited to archeological surveys and biological assessment for FLP and FSFL projects.--*
- ensure that all required materials are current, sufficiently detailed and complete, and are submitted directly to the FSA office processing the application. Information to be provided may include but is not limited to:
 - *--activity design specifications and detailed or digitalized plan for the layout of the project and all related infrastructure
 - topographical, aerial, and activity location maps sufficient for FSA to identify and define the APE and initiate development of the environmental review processes--*
 - current AD-1026

4 Roles and Responsibilities (Continued)

D Applicant or Producer Responsibilities (Continued)

- surveys, plans and permits deemed necessary and appropriate by FSA to determine the impact of the proposed action on the human environment, such as:
 - wetland determinations or jurisdictional delineations, if required
 - cultural resource survey, if necessary, for proper review by SHPO/THPO/Tribe
 - biological assessment, if necessary, for proper evaluation by USFWS or other agencies
 - applications and/or permits for all Federal, regional, State, Tribal and local approvals including construction permits, storm water run-off and operational permits, and engineering plans
 - *--Conservation Plans, Comprehensive Nutrient Management Plan (CNMP), Nutrient Management Plan (NMP), Animal Waste, Water Quality, or other plans for Animal Feeding Operations or Concentrated Animal Feeding Operations as required by their respective and/or applicable State regulatory and permitting agencies.--*
- provide public notification as directed by FSA, including associated costs, and attend and fully cooperate in holding public information meetings, as needed.

--When required at the project level, completion of the requisite level of environmental-- review is necessary before an offer of FSA assistance can be made to the applicant; therefore, applicants must not take any actions with respect to their proposed actions during the period of review and processing that could have a potential adverse impact on the environment or limit the range of alternatives. Examples include: site work requiring excavation, clearing, or hauling of fill dirt on or to the activity site. This requirement does not preclude developing preliminary plans or designs, or performing other administrative work necessary to support an application for Federal, State, Tribal, or local permits or assistance. However, developing detailed plans and specifications is discouraged when the costs involved inhibit the realistic consideration of alternative proposals.

Failure to provide complete environmental materials or delayed submittals may seriously jeopardize consideration of a proposed action by FSA or CCC.

5 **Consultations**

A Consultation Requirements

Consultation with the appropriate lead agency is required when a protected resource is potentially affected, such as threatened and endangered species or their critical habitat, cultural resources, wetlands, or floodplains, and must be completed by FSA. If agreed to in writing, lenders and contractors may assist with initiating consultations; however, this is rarely done because consultation is a federal responsibility, especially regarding consultations with tribes, which are required to be government-to-government. Even if a lender assists with consultations, FSA is still responsible for reviewing, preparing responses, and concluding the process.

All required consultations under environmental laws must be completed before a FONSI can be made and the environmental review documentation is signed or activity approved. Agencies are rarely able to complete consultation “after the fact” if projects are begun prematurely. When consultation cannot be completed, FSA will not be able to complete the requisite level of environmental review required for approval of the requested action; therefore the request must be denied.

Through consultations, measures to reduce or mitigate impacts below the level of significance may be identified and agreed upon with the relevant permitting or consulting agencies and groups. Mitigation agreed to through consultations may be carried out after FONSI (Exhibit 23) is issued, but must be stipulated in the FONSI document. There are time stipulations for consultation that should be accounted for in the overall activity timeline. The following table provides average consultation times.

Consultation	Timing
CWA	30 to 90 calendar days
CZMA	30 to 90 calendar days
EPA-Sole Source Aquifer	30 to 90 calendar days
ESA	
Formal	up to 135 calendar days
Informal	30 to 45 calendar days
SHPO/THPO	30 calendar days
Tribes without THPO	Tribes without THPO will be consulted with SHPO. The 30 calendar day time period applies concurrently to both the tribe and SHPO.
National Parks Service (NPS) - Nationwide Rivers Inventory (NRI)	NRI 30 calendar days

53 Water Quality (Continued)

D Review Process (Continued)

Storm Water Pollution Prevention Plans (SWPPP's) are necessary to obtain NPDES permits required for the regulation of storm water discharges for projects involving construction, clearing, grading, and excavating activities that **disturb one acre or more, including smaller sites in a larger common plan of development.** The SWPPP addresses all pollutants and their sources, including sediment associated with construction, site erosion, and runoff and provides for control through the implementation of best management practices.

- Agricultural projects are no longer exempt from NPDES permitting.
- Many states and counties require storm water management plans and permits for areas of disturbance less than one acre. Consult the SEG for State-specific requirements and requisite permitting processes.

Animal waste plans are required for livestock operations to protect surface water quality and control leaching and nutrient run off. EPA identifies which livestock operations are animal feeding operations (AFO) that do not have to be regulated or permitted vs specific different size/type of concentrated animal feeding operations (CAFO) that have the potential to discharge and require regulation in the form of state general or individual permit. CAFO's *--need an animal waste plan, as required by their respective and/or applicable State regulatory and permitting agencies, in the form of NMP or CNMP to document how water quality--* will be protected.

- Nutrient Management Plans (NMP) are a method for producers to demonstrate improved efficiency of operations in a fashion that minimizing the environmental impacts. I.e. they are site specific conservations plans designed to manage the amount, source, placement, form and timing of the application of nutrients and amendments to soil so as to prevent the discharge of pollution or excess nutrients.
- Comprehensive Nutrient Management Plans (CNMP's) are conservation plans unique to livestock operations. These plans document practices and strategies adopted by livestock operations to address natural resource concerns related to soil erosion, livestock manure and disposal of organic by-products.

53 Water Quality (Continued)**D Review Process (Continued)**

NMP and CNMP's are site specific and are to address six components including best management practices. The first four items below must be addressed. The need for plans to address the last two components will depend on the individual operation:

- proper storage of manure and maintenance of the storage structure
- proper land application of the manure
- appropriate site management that looks at the risks on a particular field, such as sinkholes, streams running through the field, shallow groundwater, or erosion that needs to be controlled
- record keeping that documents land practices, so that if anyone has questions, there is proof of what is being done and why
- feed management to improve feed efficiency so that nutrient content of manure is reduced
- alternative uses for the manure.

Note: This component is needed by producers whose operations generate more manure than they can apply.

Contact SEC who will advise on steps for contacting the State's water quality department for specific permitting requirements.

E Possible Data Sources

For information on surface water quality, including required permits (NPDES, SWPP, etc.), plans, etc., refer to the U.S. Environmental Protection Agency (EPA) website: www.epa.gov and your State Environmental Guide for state-specific requirements.

F Associated Permits

The following is information regarding Clean Water Act requirements. Be aware that specific state requirements may be more stringent and must be followed.

CWA, Section 319: Other activities undertaken near U.S. waters may be sources of nonpoint source pollution by runoff over the land. Under CWA, Section 319 authority, States regulate nonpoint source pollution and should be contacted to determine whether permits, plans, or using BMP's are required.

53 Water Quality (Continued)

F Associated Permits (Continued)

CWA, Section 401: Before issuing a license or permit, including NPDES permit, for proposed Federal actions that may result in discharge to U.S. waters, agencies must obtain a certification from the State that the proposed action is consistent with CWA, including compliance with State ambient water quality standards. Applications for CWA, Section 401 certification vary by State. Contact applicable State's water quality department for an application and assistance.

CWA, Section 402: Most CAFO's, construction affecting greater than 1 acre, and construction of a facility that would discharge effluent, including storm water, into surface water or a municipal sewage system, require NPDES permits. EPA gives most States the authority to determine the permit based on size and type of facility and environmental risk *-CNMP, as required by their respective and/or applicable State regulatory and permitting agencies, must accompany permit applications for CAFO's. Contact the State's EQ-* department or regional EPA for permitting information.

Joint Permits: Joint Section 401/402 permits may be available to streamline the acquisition of required Federal and State water quality permits. Contact applicable State's water quality department to determine if joint permit applications are available.

G Consultation

Obtaining the appropriate permits and plans for the proposed activity is considered consultation for surface water quality. If permits and/or plans are required for the activity to be implemented, they must be obtained prior to completing and incorporated into the environmental review process. These should be maintained as part of the environmental review file and available for public inspection, if requested.

H Acceptable Types of Documentation

A completed FSA-850 serves as documentation for surface water quality impact discussion. If a potential impact exists, mitigation measures, including reference to required permits, management plans, and compliance monitoring, should accompany the environmental review.

-CAFO's meeting the definition of medium, or large CAFO's must have CNMP, as required by State regulatory and permitting agencies. CAFO's not meeting the definition of CAFO- (Exhibit 16) are encouraged, but not required to have CNMP but at a minimum need a NMP *-to address how waste is handled, as required by their respective and/or applicable State regulatory and permitting agencies. If potential impact exists for AFO not meeting the-* definition of CAFO, it is the owner's responsibility to provide information on how potential risks will be mitigated. See Part 3 for the level of analysis required for a establishing or expanding a livestock holding facility, activity, or feedlot.

54 Air Quality**A Resource**

Air pollution threatens the health of human beings and every other living thing on the planet. While often invisible, pollutants in the air create smog and acid rain, cause cancer, respiratory problems, heart or lung disease, and other serious health effects, and diminish the protective ozone layer in the upper atmosphere.

Main sources of air pollution include stationary, mobile, and agricultural sources. A stationary source is an emission source that does not move, such as manufacturing facilities, utilities, etc. A mobile source is a source that is capable of moving under its own power, such as planes, cars, farm and construction equipment, etc. Agricultural sources are agricultural operations that raise animals and grow crops can generate emissions of gases, particulate matter, chemical compounds, and odor.

B Lead Agency for Resource

EPA is responsible for the national air quality. Each State's EQ or similar department is responsible for maintaining the national standards within their State. In general, States ban open air burning and / or operation of an incinerator without a permit. States also widely regulate generators or "power units" driven by nonelectric fuel sources, and the use of lower sulphur content fuel is typically required.

C FSA Policy and Objectives

FSA will not approve actions or activities that could cause significant air pollution.