

# SCC Approves Proposing Rulemaking For Nutrient Management

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(b) A plan amendment is required when calculations in the plan as originally submitted are in error.

(c) A plan amendment shall be developed and certified by a nutrient management specialist and shall be submitted to the reviewing agency in accordance with §83.321(a) (relating to initial plan review and approval).

## §83.332. Amendments Due to Unforeseen Circumstances.

Changes in the implementation of plans due to unforeseen circumstances shall be certified by a nutrient management specialist as meeting all applicable requirements of this subchapter and submitted to the district within 30 days of implementation. Unforeseen circumstances shall include the following:

(1) Outbreak of contagious disease. Manure management must be consistent with the procedures set forth in §83.341 (relating to manure management in emergency situations).

(2) Failures or malfunctions of equipment or storage that require a change in manure handling procedures.

(3) Other unforeseen circumstances that cause a significant change in the management of nutrients on the agricultural operation, such as:

- (i) Crop failure due to adverse weather conditions,
- (ii) Unanticipated loss of rented land

## §83.333. 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 plan amendments under §83.331 (relating to plan amendments).

(b) If the transfer of the plan results in operational changes requiring plan amendment(s) under §83.331 (relating to plan amendments), the plan amendments shall be submitted for approval of the Commission or delegated conservation district along with the notification required under subsection (a).

## CONTAGIOUS DISEASE EMERGENCIES

### §83.341 Manure Management in Emergency Situation.

(a) In situations where there is an outbreak of a contagious disease as regulated by the Pennsylvania Department of Agriculture, manure management will be consistent with those requirements set forth in the Department of Agriculture's Order of Quarantine issued pursuant to the Domestic Animal Act, 3 P. S. §311 et seq., and regulations promulgated thereunder.

(b) The Department of Agriculture shall notify the Commission when a quarantine is imposed on an agricultural operation covered by the Act. The Department of Agriculture shall supply the Commission and delegated conservation district with a copy of the quarantine document.

(c) Unless otherwise directed by the quarantine, an amended nutrient management plan shall be developed addressing the management of manure under the quarantine. This plan shall be certified by a nutrient management specialist prior to implementation and submitted to the reviewing agency within 30 days of implementation.

(d) Where nutrients are applied in excess of crop need due to the quarantine restrictions placed on the manure, and the cropping sequence permits, cover crops shall be planted to the site to minimize the loss of these nutrients.

(e) The temporary storage of manure during the quarantine shall be done in accordance to §83.251 (relating to manure management).

(f) The application of manure during the quarantine shall be done in accordance with §83.234(5) (relating to nutrient application procedures).

(g) Standard soil tests will be required each year for crop fields where the implementation of the quarantine necessitated that nutrients be applied in excess of the original nutrient plan recommendations. In addition to the standard test, an appropriate test indicating the amount of nitrogen available for crop uptake shall be required for one year beyond the cessation of excess manure application.

## FINANCIAL ASSISTANCE

### §83.351 Applicant Eligibility

(a) An owner or operator of an agricultural operation existing on the effective date of the nutrient management regulations may apply for financial assistance for the implementation of nutrient management plans under the Act. The owner or operator shall have legal and financial responsibility for the agricultural operation during the term of the financial assistance provided by the Commission.

(b) If the applicant is a lessee/operator, the applicant shall apply jointly with the owner of the agricultural operation for financial assistance. The lessee/operator and owner shall be jointly responsible for the repayment of financial assistance.

### §83.352. Condition for Receipt of Financial Assistance.

Any agricultural operation approved to receive financial assistance under the Chesapeake Bay Nonpoint Source Pollution Abatement Program after the date of this subchapter or otherwise receiving financial assistance Act for nutrient management plans shall agree to develop and a nutrient management plan as a condition for receiving the assistance.

### §83.353 Financial Assistance Criteria

The Commission shall consider the following criteria in reviewing applications for financial assistance.

(1) Whether the project will improve the health, safety or environment of the people of this Commonwealth and otherwise satisfy the purposes of the Act and this subchapter.

(2) The long-term financial and/or operational viability of the proper manner.

(3) The cost effectiveness of the proposed BMPs in comparison with other alternatives;

(4) The applicant's ability to operate and maintain the BMPs in a proper manner

### §83.354. Application Procedure.

(a) An application for financial assistance shall be made on forms approved by the Commission and shall be addressed to the Commission.

(b) An application received by the Commission shall be reviewed for completeness and eligibility. An application shall include a summary of the approved nutrient management plan which identifies the proposed BMPs for which financial assistance is being requested.

(c) If the application is determined to be incomplete, the Commission shall provide the applicant with a written explanation of the reasons for the determination, and request the additional information needed to complete the application process.

(d) The Commission shall approve or deny each application submitted. Within 45 days of receipt of all required information, applicants shall be notified in writing of actions taken on their applications and their right to appeal such actions.

(e) The applicant may appeal to the Commission for review of an action taken by a delegated agent under this section within 30 days of notice of such action.

### §83.355. Project Evaluation Criteria.

Applications for financial assistance shall be evaluated in accordance with project evaluation criteria guidelines developed by the Commission.

### §83.356. Eligible Costs.

(a) Eligible project costs considered by the Commission shall be those costs necessary to implement the nutrient management plan and may include the following:

(1) Project design and engineering including plans, specifications, cost estimates, certifications, and surveys

(2) Costs associated with obtaining the financial assistance and may include loan origination and/or loan application fees, title fees, and filing fees

(3) Project construction, including labor, materials, machinery, equipment and site preparation associated with the project.

(4) Other costs the Commission has determined to be necessary

(b) Funds encumbered or advanced for the project which are not used for eligible costs in the project shall be returned to the fund or account from which they originated for reallocation and use in the implementation of other nutrient management plans.

### §83.357. Loans.

(a) The Commission shall issue loans and set applicable terms and conditions it deems appropriate. The Commission may consider factors as it deems relevant including the following:

(1) Current market interest rates.

(2) The financial ability of the applicant to repay.

(3) The necessity to maintain the Fund in a financially sound manner

(b) Loans may be based on the ability to repay from future revenue to be derived from the applicant's agricultural operation. Loans may be secured by a mortgage and/or the security interest, or by any other fiscal manner which the Commission deems appropriate. The minimum rate of interest to be paid on any loan made shall be one percent (1%).

(c) The term of loans shall not exceed 10 years from the day the loan agreements are executed.

(d) The Commission may defer the initiation of the repayment of principal up to 12 months from the date the loan agreements are executed. The borrower may begin principal and interest payments sooner than required, if he or she so desires.

### §83.358. Loan Guarantees

The Commission may make loan guarantees if the Commission determines that it is an appropriate method so accomplish the purposes of the Act or this subchapter.

### §83.359. Grants.

(a) A grant will be considered when funds have been made available to the Commission and the Commission determines that the financial condition of the recipient is such that repayment of a loan is unlikely and that the recipient will be financially distressed by the implementation of BMPs without a grant.

(b) The Commission may limit individual grant awards to whatever amount it deems appropriate. The maximum amount of a grant may not exceed a maximum of 80% of the eligible project costs, or a sum of \$30,000. Any agricultural operation that has received or is approved to receive financial assistance under the Chesapeake Bay Nonpoint Source Pollution Abatement Program shall be eligible for grants under the Nutrient Management Financial Assistance Program up to a maximum of \$30,000 in grants from combined sources of the Chesapeake Bay Program and the Nutrient Management Financial Assistance Program.

(c) A grant will be made subject to terms and conditions the Commission establishes.

### §83.360. Grants and Loans.

The Commission shall, where it deems it appropriate and to the extent financial circumstances permit, mix grant funds with loan funds.

### §83.361. Funding Limitations.

(a) Total funding limits. Total assistance provided under loans, grants, and loan guarantees for the implementation of a single nutrient management plan shall not exceed \$75,000.

(b) Partial funding. The Commission reserves the right to provide funding for only a portion of the total costs of the project or only a portion of the amount requested in a financial assistance application.

(c) Least Cost Alternative. Financial assistance provided shall not exceed that amount necessary for the least-cost alternative for each BMP included.

(d) Limitation.

(1) No financial assistance will be made available that might jeopardize or compromise the Fund.

(2) Financial assistance will not be available for refinancing.

(3) Financial assistance will not be available for BMPs where construction is initiated prior to submission of an application for financial assistance, unless a Letter of No Prejudice has been issued by the Commission as provided in subsection (e).

(e) Letters of no prejudice. Exceptions to the general prohibition against initiation of construction prior to consideration by the Commission may be made when plan implementation is required to proceed before an application for financial assistance can be submitted to the Commission. In this case, a potential applicant may apply to the Commission for a letter of no prejudice wherein the Commission agrees to consider a future application for financial assistance without limitation or prejudice even if project construction has begun at that time. If the Commission issues a letter of no prejudice, project construction can begin without jeopardizing or benefiting a future application.

### §83.362. Implementation and Reporting.

(a) The Commission shall develop financial assistance documents which shall, among other things, define the terms and conditions under which the financial assistance is offered, and specify other documents determined to be necessary by the Commission.

(b) Unless otherwise approved by the Commission, the applicant shall begin construction of the project, in accordance with its application within 6 months after approval by the Commission. If the applicant does not begin implementation within the specified time period and continue work without unreasonable interruption, the financial assistance may be withdrawn by the Commission.

(c) Design and construction of BMPs shall conform to the standards found in the Pennsylvania Technical Guide. The applicant may not significantly deviate from the scope, approved design or time schedule for a project unless prior written approval is given by the Commission or delegated agent. The term "scope", as used in this subsection, shall mean the extent of project activities determined by the Commission to be eligible for financial assistance.

(1) A request for significant changes in scope shall be submitted in writing to the Commission or delegated agent for approval. Where changes in scope require a nutrient management plan amendment under the criteria of §83.331 (relating to plan amendments), the applicant shall provide a copy of the approved plan amendment.

(2) Funding eligibility for a change in scope will be based on the criteria described in §83.353 (relating to financial assistance criteria). Consent of the Commission to a change in scope will not be deemed to increase the amount of financial assistance provided without the express approval of the Commission. Funding for changes in the scope of an assistance project will be approved only in the following circumstances:

(i) The change in scope is a result of new or revised requirements, Federal legislation, or a Federal regulation thereunder, State legislation or State regulation promulgated thereunder, The Act (3 P. S. §§1701-1719), or this subchapter, The Clean Streams Law (35 P. S. §§691.1-91.1001) or regulations promulgated thereunder.

(ii) The change in scope is necessary to protect the structural or process integrity of the facilities.

(iii) Adverse conditions are identified during the construction of the facilities which could not have been foreseen by the design engineer prior to encountering the condition.

(iv) The change is necessary to relieve emergency conditions occurring during construction of the facilities.

(d) A request for a disbursement of financial assistance shall be on forms approved by the Commission and shall be submitted on a schedule approved by the Commission.

(e) The applicant shall maintain project progress and financial records.

(f) If the applicant fails to comply with this section, the Commission may withdraw the remaining funds allocated to the project, as well as take any other action which it is legally entitled to take.

### §83.363. Delegation of Financial Assistance.

(a) Under Section 4(3) of the Conservation District Law (3 P. S. §852(3)) and subject to this section, the Commission may by written agreement delegate to one or more agents the administration of the financial assistance provisions of this subchapter set forth at §§83.351-83.362.

(b) To the extent delegated by the agreement, the delegations may include the authority to review and approve applications for financial assistance under the Act and this subchapter and to exercise other powers and duties otherwise vested in the Commission to administer the financial assistance program.

(c) A delegation agreement shall:

(1) Specify the powers and duties to be performed by the delegated agents.

(2) Provide for the commitment of sufficient trained staff and resources to perform the process and duties to be delegated.

(3) Require the delegated agent to maintain records of activities under the delegation.

(4) Provide for the monitoring and supervision by the Commission of performance by the delegated agents of the functions delegated under the agreement.

(d) When the Commission delegates one or more of its powers and duties to an agent, the Commission will retain the concurrent power to administer the financial assistance provisions of this subchapter.

## DELEGATION TO LOCAL AGENCIES

### §83.371. Delegation to local agencies.

(a) Under section 4(8) of the Act (3 P. S. §1704(8)) and subject to this section, the Commission may by written agreement delegate to a conservation district one or more of its administrative or enforcement authority(s) under the Act.

(b) The delegation of administrative or enforcement authority may be made to a conservation district when the district demonstrates it has or will have an adequate program and sufficient resources to accept and implement the delegation.

(c) To the extent delegated by the agreement, the delegations may include the authority to enforce the Act and this chapter and to exercise other powers and duties otherwise vested in the Commission to implement the Act.

(d) A delegation agreement shall:

(1) Specify the powers and duties to be performed by the delegated district.

(2) Provide for the commitment of sufficient trained staff and resources to perform the powers and duties to be delegated.

(3) Require the delegated conservation district to maintain records of activities performed under the delegation.

(4) Provide for the monitoring and supervision by the Commission of performance by the delegated conservation district of the functions delegated under the agreement.

(e) When the Commission delegates one or more of its powers and duties to a delegated conservation district, the Commission will retain the concurrent power to administer and enforce the Act and this subchapter.

## OTHER PLANNING PROVISIONS

### §83.361. Compliance Plans.

Any agricultural operation found to be in violation of the Clean Streams Law (35 P. S. §691 E-691 1001) may be required to submit a nutrient management plan that meets the requirements of the Act, contains interim measures deemed necessary to prevent or abate such pollution, and includes an implementation schedule. The plan is required to be submitted within three months of notification of the violation and shall be implemented in accordance with the schedule as approved.

## Public Auction Register

Closing Date Monday 5:00 P.M.  
of each week's publication

## JUNE

WED. JUNE 28 - 4:30PM  
Antiques and Collectibles,  
1550 Sandhill Rd., Hershey, Pa. Hershey, Pa. off Rt. 322 turn S. (near Hershey Medical Center) onto Bullfrog Valley Rd. Approx. 2.5 miles to Ziegler auction Facility.

THURS. JUNE 29 - 8:30AM  
Tools, truck covers, automobile windows, farm tools, misc. items. Located 1 1/10 mile N. of Manchester along Rt. 181, turn right at Gray Rock. Rentzel's Auction Service.

THURS. JUNE 29 - 12

O'Clock. Furniture, household, baseball items, guns, antiques, Hess trucks. 1 1/10 mile N. of Manchester, along Rt. 181 turn right at Gray Rock. Rentzel's Auction Service.

THURS JUNE 29 - 4PM  
Equipment & automobile auction, antique & household. Located Shamrock Auction Center, Rt. 267 N of Meshoppen, Pa. Wyoming Co. Shamrock Auction Service.

SAT. JULY 1 - 9AM Tools, household & antiques, autos, car parts. Held at 1642 Bollinger Rd., Westminster, Md. from Rt. 140, turn onto Reese Rd. at

Reese Fire Halo, go approx. 1/4 mile, turn left onto Old Westminster Pike, go approx. 1 mile, turn right onto Bollinger Rd. and go 1/4 mile to auction on right. Property of Clark W. Davidson. Nevin E. Tasto, auct.

SAT. JULY 1 - 9:45AM  
Repossession Sale, approx. 180 repo's & off lease vehicles. Keystone Public Auto Exchange.

SAT. JULY 1 - 10AM Haymakers Special Consignment Auction, At Visscher Farm, Rte. 282 1/2 miles S. of the village of Nichols, NY. 20 miles N. of Towanda-Wysox area via Rt. 187. Tractors, farm equip., lawn & garden & misc. Howard W. Visscher, aucts.

# JUNE IS DAIRY MONTH