



REISSUING NPDES PERMITS: PLANNING, COLLABORATION, AND ASSESSMENT US EPA REGION III

Association of Clean Water Administrators
2018 National CAFO Roundtable
The Riverside Hotel
September 25 - 27, 2018
Boise, Idaho



To provide an overview of some of the considerations a permitting authority should be thinking about when issuing or reissuing an NPDES CAFO Permit.

OBJECTIVE



PRESENTATION OVERVIEW

CAFO TEAM

- R3 WPD Office of NPDES Permits and Enforcement
- R3 Office of Regional Counsel
- R3 WPD Agricultural Advisor

STRATEGIC PLANNING

- CAFO Universe
- Integrated Water Resources Management

COLLABORATION/INTEGRATION

- Stakeholders
- Counterparts

EPA LEAN MANAGEMENT SYSTEM : ASSESSMENT TOOL

- State NPDES CAFO Regulation
- State NPDES CAFO Permit
- State Nutrient Management Plan

COMMUNICATION

- Comment Letter Data Base
- NPDES CAFO Permit News



TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT



US EPA REGION III NPDES CAFO TEAM

TEAM STRUCTURE

- Senior Manager, Champion
- Agricultural Advisor
- Permit Manager
- Enforcement Manager
- Attorney Adviser
- Team Lead
- Agricultural Coordinator
- Permit Coordinator
- Enforcement Coordinator



CAFO UNIVERSE

ROUGH ESTIMATE: FEBRUARY 2018

State	Total CAFOs	Permitted CAFOs	% Permitted CAFOs
DE	514	132	26%
MD	590	531	90%
PA	430	420	98%
VA	178	8	4%
WV	21	3	14%



STRATEGIC PLANNING

BENCHMARK

- In 2011, Region III requested its regional states to develop, implement, operate, and maintain a permit strategy and an enforcement strategy to streamline their processes to implement and enforce applicable requirements.



STRATEGIC PLANNING

NPDES CAFO Permit Strategy Template

Objective

- A concise description of the primary objectives of your activity and their environmental importance within an integrated planned effect.

Measures

- A description of the measures that you will use to determine the success in meeting your objectives.



STRATEGIC PLANNING

NPDES CAFO Permit Strategy Template

Strategy

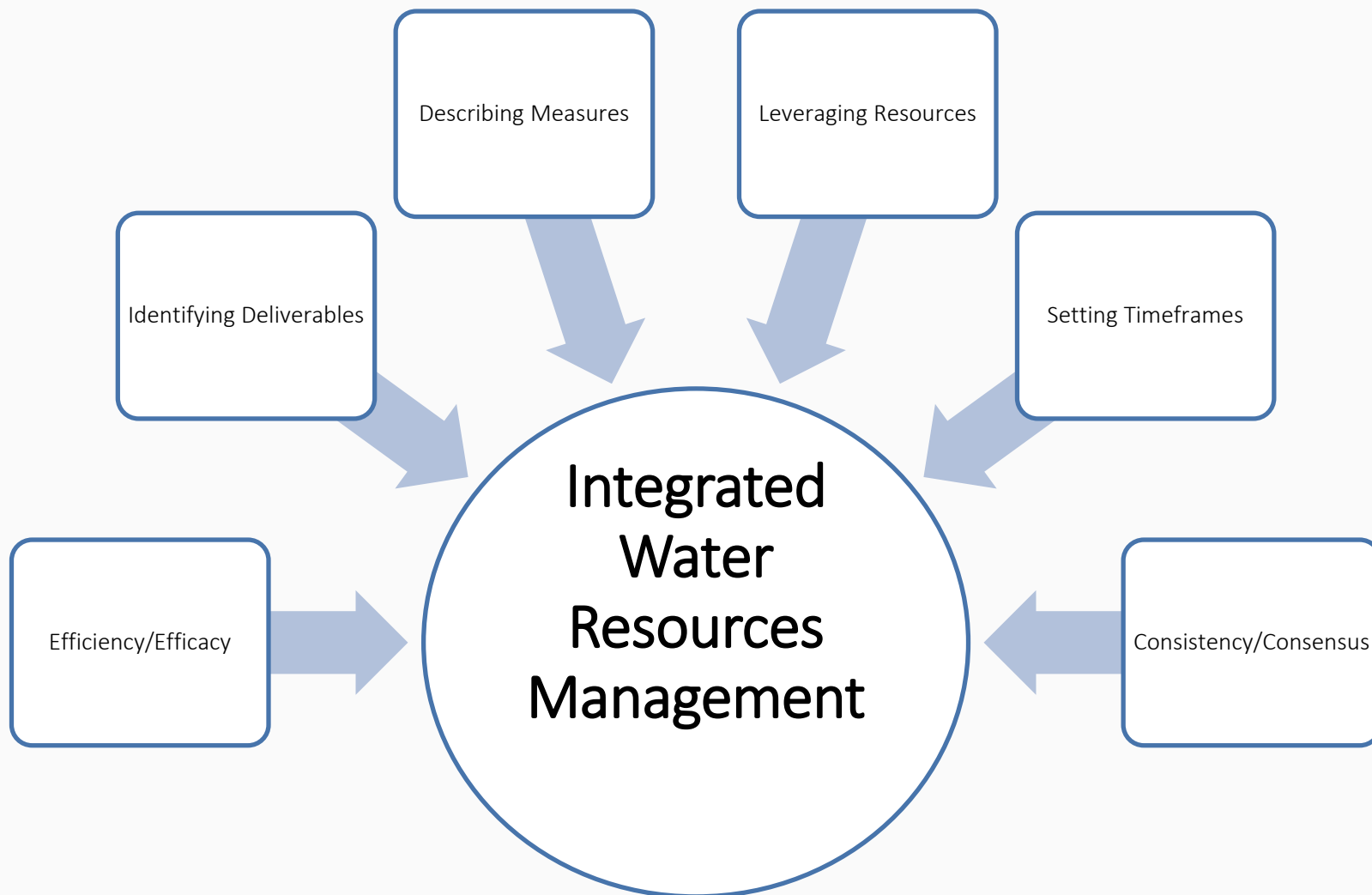
- This should be a discussion of how you intend to achieve each of the objectives identified.

Milestones

- This should be identification of major deliverables and the timeline for each of the components of the strategy.



INTEGRATION/COLLABORATION





STAKEHOLDERS/COUNTERPARTS

Stakeholders

- Permittee
- Integrator
- Agricultural Community
- Consumer

Counterparts

- State NPDES Permitting Authority
- State Agriculture Permitting Authority
- State Applicable Permitting Authorities
- USDA
 - NRCS
 - RD

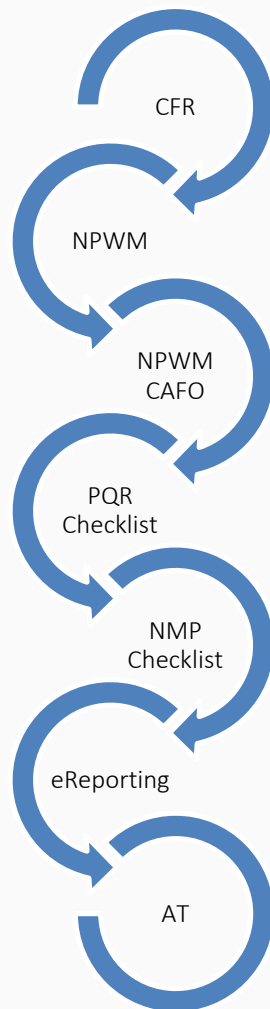


A Lean Management System (LMS) is a set of practices and tools that supports all members of an organization in identifying and solving problems where they occur. The goal is continuous improvement of the organization to better accomplish its mission. For EPA, that means improving our efforts to protect human health and the environment.

EPA LEAN MANAGEMENT SYSTEM: ASSESSMENT TOOL



ASSESSMENT TOOL



EPA-issued

- 2003 CAFO Rule
- 2008 CAFO Rule
- 2010 NPDES Permit Writers' Manual
- 2012 NPDES Permit Writers' Manual for CAFOs
- 2012 CAFO Rule
- 2013 NPDES Permit Quality Review Checklist
- 2015 NPDES Electronic Reporting Rule
- Regional Assessment Tools
 - Ongoing



ASSESSMENT TOOL

Nutrient Management Plan

- Federal NPDES CAFO Regulations
- EPA NPDES Permit Writer's Manual
- EPA NPDES Permit Writers' Manual for CAFOs
- State Agricultural Technical Standards
- Observations in EPA's Agricultural Program Assessments related to NMP requirements
- State Nutrient Management Regulations
- Sections in the State NPDES CAFO General Permit related to NMP requirements
- State Nutrient Management Planning Software Manual



ASSESSMENT TOOL

DRAFT NMP SCREEN REVIEW CHECKLIST



ASSESSMENT TOOL

Identify protocols for appropriate testing of manure, litter, process wastewater, and soil					
Mentioned in NMP or NMP Planning Component					
Testing	Yes	No	NA	Comments	
Soil	Lab Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Use of Certified Lab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Use of Certified Analyst	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Analyzed < 5 yrs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Fields Identified	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Test Method	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	P Content	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Recommendation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Manure	Lab Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Use of Certified Lab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Use of Certified Analyst	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Analyzed < 1 yr	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Manure Types	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Test Method	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	N Content	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	P Content	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Recommendation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Analysis	Protocols	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Inspection Completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Statement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



ASSESSMENT TOOL

DRAFT STATE NMP REVIEW CHECKLIST



ASSESSMENT TOOL

IX. Record Keeping

156	Based on the approved plan(s), does the facility maintain all records necessary to document the development and implementation of the CNMP and Conservation Plan and all other requirements of Parts IV and V of this permit? Are these records maintained for five years? (GP IV.B.9)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not determined <input type="checkbox"/> Not applicable		
157	<p>Has the permittee been required to submit a sampling plan to determine whether there is a discharge to waters of the State from land application areas or production areas? If no, select "not applicable." If yes,</p> <p><input type="checkbox"/> Does the plan address collection of grab samples of surface discharge, including overflows or spills from waste storage structures or spray fields? (GP V.A.1)</p> <p><input type="checkbox"/> Are the samples analyzed for fecal coliform bacteria, biochemical oxygen demand, total suspended solids, total nitrogen, total phosphorus, any pesticide which the permittee has reason to believe could be in the discharge, and any other constituents as may be required by the Department? (GP V.A.1)</p> <p><input type="checkbox"/> For each measurement or sample, does the permittee record:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The exact place, date, and time of sampling or measurement; <input type="checkbox"/> The person(s) who performed the sampling or measurement; <input type="checkbox"/> The dates and times the analyses were performed; <input type="checkbox"/> The person(s) who performed the analyses; <input type="checkbox"/> The analytical techniques or methods used; and <input type="checkbox"/> The results of all required analyses? (GP V.A.2) <p><input type="checkbox"/> Do the sampling and analytical methods used conform to procedures for the analysis of pollutants as identified in 40 CFR Part 136 - "Guidelines Establishing Test Procedures for the Analysis of Pollutants" unless otherwise specified? (GP V.A.3)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not determined <input type="checkbox"/> Not applicable		
158	Based on the approved plan(s), are all records and information resulting from the monitoring record keeping, application equipment inspection, and reporting activities required by this permit retained for a minimum of five (5) years, including	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not determined <input type="checkbox"/> Not applicable		



ASSESSMENT TOOL

DRAFT NPDES PERMIT REVIEW CHECKLIST



ASSESSMENT TOOL

VI. Standard Conditions

1. Did the permit contain all 40 CFR 122.41 standard conditions? Yes No
- | | |
|--|---|
| <input type="checkbox"/> (a) Duty to comply | <input type="checkbox"/> (l) Reporting requirements |
| <input type="checkbox"/> (b) Duty to reapply | <input type="checkbox"/> (1) Planned change |
| <input type="checkbox"/> (c) Need to halt or reduce activity not a defense | <input type="checkbox"/> (2) Anticipated noncompliance |
| <input type="checkbox"/> (d) Duty to mitigate | <input type="checkbox"/> (3) Transfers |
| <input type="checkbox"/> (e) Proper operation & maintenance | <input type="checkbox"/> (4) Monitoring reports |
| <input type="checkbox"/> (f) Permit actions | <input type="checkbox"/> (5) Compliance schedules |
| <input type="checkbox"/> (g) Property rights | <input type="checkbox"/> (6) Twenty-four hour reporting |
| <input type="checkbox"/> (h) Duty to provide information | <input type="checkbox"/> (7) Other non-compliance |
| <input type="checkbox"/> (i) Inspections and entry | <input type="checkbox"/> (8) Other information |
| <input type="checkbox"/> (j) Monitoring and records | <input type="checkbox"/> (m) Bypass |
| <input type="checkbox"/> (k) Signatory requirement | <input type="checkbox"/> (n) Upset |
2. Was the language of all § 122.41 standard conditions at least as stringent as the federal regulations? Yes No
- a. If no, specify: _____



COMMUNICATION

COMMENT LETTER DATA BASE

- Comment Letter (WPD/ORC-approved)
 - Standard Comment and Recommendation
 - Objection Letter Template
 - Resolutions
- Conference Call Notes
- Issue Paper
- Statement of Work
- Workplan
- End-of-Year Report
- Presentation
- Salient Issue
- Story of Progress



COMMUNICATION

NPDES CAFO PERMIT NEWS

- To inform management and staff on programmatic results, transfer knowledge, oversight activities, lessons learned, and value added.
- To use this information to develop informative tools such as, but not limited to, the comment letter data base.



COMMUNICATION

NPDES CAFO PERMIT NEWS (SALIENT ISSUE # 1)

- **Delaware Accomplishes a Historic CWA Milestone** - On April 1, 2016 the Delaware Department of Natural Resources and Environmental Control (DNREC), in conjunction with the Delaware Department of Agriculture (DDA), issued Delaware's first Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) general permit for a point source—a Concentrated Animal Feeding Operation (CAFO) general permit for poultry operations that do not use land application for manure (GP1). GP1, which has been the product of extensive discussions between Region 3, DNREC, and DDA, will grant coverage to more than half of Delaware's CAFO universe. Until the issuance of GP1, there had been no poultry CAFO permitting despite over eight years of extensive discussions between Delaware and EPA. The issuance of GP1 has been a central point of discussion between EPA and Delaware in fulfilling EPA's responsibility for NPDES and Chesapeake Bay Total Maximum Daily Load (TMDL) oversight. The issuance of this general permit required extensive staff and management coordination, as well as the identification of resource constraints, deliverables, and timeframes. The Region and Delaware are now engaged in discussions to design, develop, and implement a schedule for granting coverage under GP1 to CAFOs that have submitted Notices of Intent (NOIs). There are significant resource constraints, but it is EPA's expectation that coverage for these CAFOs should be achieved in 2016. EPA and Delaware are also in discussion on the development and issuance of two more NPDES CAFO general permits, one for poultry operations that do use land application for manure (GP2) and the other for non-poultry operations that either do or do not use land application for manure (GP3). Accomplishing this NPDES CAFO milestone represents an important step toward accountability in the Animal Feeding Operation sector in Region 3 and the Chesapeake Bay.



COMMUNICATION

NPDES CAFO PERMIT NEWS (SALIENT ISSUE # 2)

- **EPA's Review of CAFO Permits and NMPs in the Chesapeake Bay Watershed** - On May 2, 2017, EPA uploaded onto its national webpage letters to Maryland and New York summarizing EPA's review of National Pollutant Discharge Elimination System (NPDES) permits for Concentrated Animal Feeding Operations (CAFOs) and selected nutrient management plans (NMPs) located in the Chesapeake Bay Watershed. Starting in 2013, EPA conducted reviews of permits and plans (which are enforceable terms and conditions of their permits) in six of the Chesapeake Bay Total Maximum Daily Load (TMDL) jurisdictions (Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia). EPA's reviews assessed whether those permits and plans are enforceable and consistent with federal regulations. EPA's reviews also assessed whether the permits and plans—and how they are implemented—are consistent with, and effectively achieving the jurisdictions' Watershed Implementation Plans. This process satisfies commitments EPA made in a settlement agreement that resolved the lawsuit *Fowler, et al. v. EPA*. EPA will use these reviews to help the jurisdictions improve their CAFO programs.



WIN-WIN RESULTS

Due to EPA's comments, recommendations, and objections, the regional states have been:

- incorporating Total Maximum Daily Loads considerations into permit components;
- featuring environmental-related changes to its NMP planning, development, and issuance tools;
- developing permit and fact sheet templates;
- reaching out to the agricultural community to inform about environmental requirements;
- incorporating site-specific best management practices into permit components;
- establishing and following schedules of progress for permit development, issuance, and implementation, and;
- establishing and following standard operating procedures to write permits.



The NPDES Program is one of the fundamental building blocks for clean water in this country and we should use it to great advantage to improve the quality of NPDES permits and secure tangible environmental results.

KEEP BUILDING ON A RESULTS-FIRST APPROACH



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THANKS