

Act 38 Nutrient Management Program and Chapter 91 Manure Management Manual

Administrative Manual
Proposed Version 6.0

Agriculture Advisory Board Meeting
March 18, 2021

History – Administrative Manual

- The current version (Version 5.0) of the Adm Manual was released in October 2019.
- In August 2020, SCC staff held an open comment period for users of the Adm Manual to submit comments and suggestions for revisions to the Tech Manual.
- SCC staff received a total of 24 comments / suggestions.
- SCC staff reviewed the comments / suggestions and deemed that 14 comments / suggestions had merit.

Comment 1

Plan Review Checklist

- There is a nice header for the *Administrative Completeness Review*, but then it flows right into the *Technical review of the Cover Page* without the same kind of header - might be confusing for newbies
- **No Merit**

Comment 2

Plan Review and Approval

- Allow for full electronic submission of draft NMPs, as well as, addressing review comments to see the plan through the entire review process. This could work similarly to how odor management plans are submitted / reviewed / approved. If explicitly needed, then a hardcopy for final approval can still be provided.
- **Merit**

Comment 3

Compliance

- Some type of guidance stating operators are not out of compliance if they have not over applied nutrients even if manure and crops have changed from what is written into the approved plan.
- **Merit**

Comment 4

CAFO Public Notice Review

Comments Delay

- SCC could update TM and Adm guidance that we would allow “unofficial” comments to be sent to the planner before the 30-public comment period is up to speed up the review process. Letter needs to make it clear to plan writer that these may not be the final set of comments, that more comments may be coming. the record of change, add the CAO withdrawal letter
- **Merit**

Comment 5

Typo for Payment Form

- Just an FYI Don Orner's phone number is also incorrect in Chapter 5 of the NM Admin manual.
- **Merit**

Comment 6

Plan Update Notice to BOD

- Provide consistent guidance to CD BOD on when NMPs are updated (not amended)
- **Merit**

Comment 7

On-site Status Review

- Clarify that On-Site Status Reviews are needed every year, including the year that the NMP is being Amended
- **Merit**

Comment 8

Administrative Incomplete Plans

- For admin incomplete plans, the program says to send the incomplete plan back to the operator. The operator doesn't really want an incomplete plan, and I don't want to spend the postage to send it back to them. In my opinion, the admin incomplete letter addressed to the operator tells them what they need to know.
- **Merit**

Comment 9

3rd notice letter

- 3rd notice to update a plan – right now I have 4 plans that I'm waiting for, that I know are in progress, and are expected to be submitted soon. If I send the 3rd notice letter out, I'm supposed to get Board Approval, and either Chairman or Manager to sign it. The farmer receives the letter and calls me upset saying that I already know they're getting a plan, so why did I send such a nasty letter? Can we skip these letters if we know there is a plan in progress? Or is there a different way to document things if I don't receive a plan by September 30th?
- **No Merit**

Comment 10

CAFO Bulletin Notice Update

- Update guidance that CAFO bulletin notices get sent to the Resource Account now versus Kelly Rathon. See record of change for last adm manual
- **Merit**

Comment 11

Update Quarterly Reporting information

- Update Quarterly Reporting information and forms now that PracticeKeeper is the repository of much of the information
- **Merit**

Comment 12

NBS Review

- Delegated conservation district staff receive first submission NMPs and NBSs from commercial nutrient plan specialists and certified Act 49 Class 2 manure brokers (MB2) that contain many mistakes. It is understandable that some errors will occur. However, conservation district staff end up taking much of their time correcting mistakes that the NMP and NBS writers could have avoided. Some conservation district staff feel that they are doing the work the farmer is paying the NMP and NBS writers to complete. While there are procedures for conservation districts to follow in alerting the SCC of poor quality NMP and NBS writing, this seems to be inadequate.
- The SCC should develop a statewide “spot checking” procedure of first NMP and NBS submissions that delegated conservation districts receive. NMPs, NBSs, commercial nutrient management specialists or MB2 could be randomly selected by the SCC. Liaison with delegated conservation districts or regional SCC nutrient management coordinators would be needed. This statewide “spot checking” procedure of first submissions would a.) put NMP and NBS writers on notice that another set of eyes (SCC) are looking directly at their work and b.) create better quality first submissions.
- **No Merit**

Comment 13

Website Updates

- Whenever there is a revision to either Technical Manual and the Administrative Manual after first publishing, notices are sent out to conservation districts and commercial nutrient management specialist with directions on how to modify their original paper or electronic copies. However, it has been noticed that these manual updates are not always reflected on the PA Nutrient Management Program website administered by Penn State Extension. Many people typically refer to the website instead of downloading a copy and then make changes to the original.
- **No Merit**

Comment 14

Compliance Letters

- Delegated conservation districts are tasked to send out notices to concentrated animal operations (CAOs), concentrated animal feeding operations (CAFOs) or volunteer animal (or agricultural) operations (VAOs) reminding them the need to update or amend their current nutrient management plans (NMPs) and submit their NMPs to the conservation districts by the end of the crop year (September 30). When these operations do not submit their plan after two letters, conservation districts are to send a third notice letter. The SCC sanctioned template letter (Template Letters “3.C.CAO” and “3.C.VAO”) indicates that the operator is to submit the NMP update or amendment by the date of the September conservation district board of directors (CD BOD) meeting. However, the template letter is dated September 1. Depending on when the CD BOD meeting is held, this may not give much notice, especially when the CD BOD meeting is within the first week in September.
- While a conservation district could probably send the third notice letter earlier than September 1, the SCC should consider having all conservation district mail the third notice letters by August 1. This may be beneficial to conservation districts that review many plans within a given year. If this date change is considered, it may be wise to change the July 1 second notice letter’s dates (Template Letters “3.B.CAO” and “3.B.VAO”) to either May 1 or June 1, possibly even moving the April 1 first notice letter’s date to at least a month earlier (Template Letters “3.A.CAO” and “3.A.VAO”).
- **No Merit**

Comment 15

Compliance Letters

- Delegated conservation districts are to utilize a template letter (Template Letters “4.A.CAO” and “4.A.VAO”) whenever they discover an operation with an Act 38 NMP is out of compliance. The Administrative Manual indicates that this letter is to be used whenever the conservation district performs a status review or responds to a complaint. However, the template letter utilizes the term “site visit.” Some conservation district staff consider the term “site visit” the time when the public NMP reviewer visits the operation to determine whether the submitted NMP coincides what is happening. While “site visit” is a generic term that can be used for either a status review or a complaint response, it is recommended that the SCC consider having either a.) utilizing a separate letter for status reviews and a separate letter for complaint responses, or b.) optional wording somewhere in the template letter that differentiates a status review or a complaint response.
- **No merit.**

Comment 16

VAO Withdrawal letter

- The Administrative Manual supplies template Act 38 NMP withdrawal letters (Template Letters “6-2 Program CAO Withdrawal” and “6-3 VAO Withdrawal”) for operators to complete. (In the case of a CAO becoming a non-CAO, certified commercial nutrient management specialists also need to complete the withdrawal letter.) For withdrawing CAOs becoming non-CAOs, an effective date is written. However, VAOs seeking to leave the Act 38 program is only given the choice to withdrawal immediately.
- Please consider alternative first paragraph for the VAO withdrawal template letter
- **Merit**

Comment 17

Form Letters

- Develop form letters for VAO CAFO operations. Currently the form letters provided only are specific to CAO OR Volunteer operations. Neither fits well when addressing VAO CAFO situations
- **No Merit**

Comment 18

Form Letters

- Develop form letters for acknowledging NMP transfers. The only form letters currently for plan transfers are for operators to use to request the transfer, not for the District to acknowledge the transfer
- **Merit**

Comment 19

Sale of Operation

- Provide more guidance in the Admin manual for operations that withdraw from Act 38 due to transfer from a sale. This would include developing a letter to be sent to the previous owner of the operation (the seller) since the new owner will be assuming all responsibility.
- **No Merit**

Comment 20

Form Letters

- Edit the Status Review Follow-up Letter. It currently states, “Thank you for implementing your NMP, and for maintain the records required for your animal operation under Act 38.” Replace “maintain” with “maintaining”.
- **Merit**

Comment 21

Administrative Review

- Develop an official Administrative Completeness Checklist from the SCC and include in the admin manual. This would create consistency between Districts, NM technicians, and SCC regional coordinators/certification staff
- **No Merit**

Comment 22

Form Letters

- Edit Letter 4B CAO, as it jumps around in tense and person throughout the letter. For example, it's signed by the District Manager, but at times refers to “my next visit”, although it's probably the technician who's doing the visit.
- **Merit**

Comment 23

Form Letters

- Clarification on why the operator's spouse's name needs to be included in compliance letters, but planners are not required to include this information on NMPs and all other correspondence does not include the operator's spouse if they are not listed on the NMP. This becomes confusing when often we do not interact with the operator's spouse and likely do not know their name.
- **No merit**

Comment 24

Manual Setup

- Digital Manuals – The web versions of both the Tech and Admin manuals are difficult to navigate. It would help us greatly if these digital versions could contain hyperlinked TOC along with a TOC link on each page. The organization and indexing of the manual contents is confusing at some points and could be improved for quicker referencing.
- **Merit**

Moving Forward

- SCC Staff will revise the NM/MM Adm Manual per comments received and discussion.
- Revised Manual will be presented to the NMAB in August 2021 and the SCC in August and September 2021.
- If revisions are approved, manual will become effective in October 2021, with training in November 2021

Questions ?
