

Nutrient Management

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Solid Waste Rules Part 361

Update creates a registration requirement for custom manure applicators who work on CAFO farms in New York State

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On June 7, 2023 NYS Department of Environmental Conservation (DEC) adopted a revised version of the Part 360 Series (including Parts 360-369) Solid Waste rules (6 CRR NY part 360. Solid waste management facilities general requirements). These rules will be effective July 22, 2023. Part 361 – 2.3(c) of this document **has new rules for certain custom manure applicators**. Those manure applicators will have 180 days from the effective date of July 22 (or by January 18, 2024) to register with the DEC and be compliant with these new rules. Below are selected excerpts of the revised rules that apply to commercial (custom) manure applicators who work on CAFO farms in New York State along with examples of how it might apply directly to you and your business.

To read full text of the revised rules on the DEC website visit:

www.dec.ny.gov/docs/materials_minerals_pdf/part360fulltextadopt.pdf *

*361 – 2.3 (c) Registration requirements for third-party CAFO land appliers starts on page 10 of the Part 361 section or page 137 of the entire document

Who must register with DEC?

“A person, other than the owner or employee of a CAFO, who applies manure or process wastewater from a CAFO onto land that is under the control of a CAFO, referred to hereinafter as the manure applier.”

If you apply manure generated from a CAFO farm to land that is under control of a CAFO farm and you are not the owner or employee of a CAFO, you must register. If you own or are regularly employed as staff at a CAFO, you do not need to register. If manure generated on a CAFO is applied to land not under control of a CAFO, no registration is needed. Likewise, if manure generated from a non-CAFO is applied to land under control of a CAFO, no registration is needed.

How do you register with DEC?

Registration forms are fillable and can be found at DEC’s website:

dec.ny.gov/docs/materials_minerals_pdf/360regform.pdf.

The form does not currently have a check box for manure appliers, so it can be written in. A revised form will be available in September 2023. The registration form is sent to the Regional Materials Management Supervisor where the manure applicator is located (outlined at the end of the registration form).



What do I need to do once I am registered?

The manure applier must satisfy the following conditions:

- *“The land application must be done in accordance with the CAFO’s field-specific current nutrient management plan.”*

This means that the farm owner/operator or their designated representative should communicate to you any setbacks from environmentally sensitive areas and what the planned manure application rate and method is for each field you are responsible for land applying. This could include maps, a printout with information provided by field, or other communication that ensures you know the setbacks and planned rate and method for each field as outlined in the farm’s nutrient management plan.

- *“The manure applier must submit the signed **contractor certification statement** required by the [CAFO permit](#) to the CAFO **prior** to the initial application of nutrients on the date of service.*

The following statement must be signed and provided to the farm by the manure applicator at the beginning of each day of spreading for a farm. The daily acknowledgement ensures that the farm owner/operator is communicating any adjustments required by the nutrient management plan to account for changes in weather or other risk factors. The farm may already have a form available for signature (as this is a requirement of the farm to comply with their CAFO permit). The farm is required to maintain this record on site, but it is a good idea to also keep a copy for yourself so you can show due diligence in case the farm misplaces their record. For multiple day spreading events, print out one copy and initial the page each day of service.

Contractor Certification Statement

“I hereby certify under penalty of law that I understand and agree to comply with the terms and conditions of the Comprehensive Nutrient Management Plan (CNMP) for the particular area of contracted work as communicated to me by the owner/operator or their designated representative. I also understand that the owner/operator must comply with the terms and conditions of this general permit and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I am aware that there are significant penalties for submitting false information that I do not believe to be true, including the possibility of fines and imprisonment for knowing violations.”

- *“Quantity of manure applied and fields used must be provided to the involved CAFO(s) within 21 days after the last day of consecutive service, or within 24 hours upon the request of the department.”*

You must provide the farm records of your manure applications within 21 days of completing that round of manure application(s). This would include either application rates and/or total gallons applied to each field and which manure source/storage you were spreading from. As an example, if you spread on a farm for a week starting on September 1 and ending on September 7, you would provide the farm the amount of manure applied to each field by September 28. It may be helpful to include the spreading information with a bill or invoice for the service provided. It is important to note that if DEC personnel request these records (even it is before 21 days), you will need to present the requested information within 24 hours.

- *“Applicator equipment must be calibrated annually, in a manner acceptable to the department.”*

You must calibrate each piece of application equipment at least once a year. You can do this as a part of regular maintenance or during a spreading event, and you should record the date and method of calibration. This documentation must be included in your annual report (see below). For guidance on acceptable methods of calibrating manure application equipment (solid, semi-solid, liquid, flow meters) refer to Cornell University factsheet: [Agronomy Fact Sheet #18: Calibrating Manure Spreaders](#).

What kind of records need to be kept and reported to DEC?

An annual report must be submitted to DEC no later than March first of each year that will represent the previous calendar year’s activities. For example, by March 1, 2024 you will need to submit a report representing your activities from January to December 2023. (If a registration is not obtained until 2024, the first annual report will be due on March 1, 2025). DEC will be preparing a form/format for this report which will be available on their website soon. In addition to other information, it will include:

- the names of the CAFO(s) where the manure and/or process wastewater was generated
- the quantity of manure and process wastewater applied from each CAFO
- the name of the CAFO(s) where land application occurred
- the source and total amount of manure and process wastewater applied on each CAFO
- a description of how the application equipment was calibrated

A copy of the most recent annual report must be maintained at the manure applicator’s facility (wherever your business address is) and be available for inspection.

Resources

For questions about practical implementation of these new requirements, how to access or understand a farm’s CNMP, record-keeping tools, how to calibrate manure application equipment or general technical assistance, contact:

- Kirsten Workman | Cornell CALS – PRO-DAIRY Nutrient Management Specialist | kw566@cornell.edu or 607-255-4890

For questions directly related to these new rules, how to register or how to report, contact:

- Sally Rowland | NYS DEC – Division of Materials Management | sally.rowland@dec.ny.gov

For questions related to the CAFO permit and how these new rules relate to CAFO farms and facilities, contact:

- Sara Latessa | NYS DEC – Division of Water | sara.latessa@dec.ny.gov