



Date: June 21, 2012

To: Employees of USDA Natural Resources Conservation Service (NRCS)
Tennessee, Tennessee Department of Environment and Conservation (TDEC),
Tennessee Department of Agriculture (TDA), and Tennessee Soil Conservation
Districts

From: Robert Martineau, Commissioner, Tennessee Department of Environment and
Conservation
Julius Johnson, Commissioner, Tennessee Department of Agriculture
Ray Weaver, President, Tennessee Association of Conservation Districts (TACD)
Kevin Brown, State Conservationist, NRCS Tennessee

Subject: Permit Streamlining Agreement between NRCS, TDEC, TDA, and TACD

In an effort to streamline the permitting process for NRCS and TDA soil and water conservation practices, a fact sheet entitled "NRCS Conservation Practices: Construction Stormwater Permit & Aquatic Resources Alteration Permit Requirements" has been produced through the cooperation of NRCS, TDEC, TDA, and TACD. The document is to be used by field personnel from all the agencies and Soil Conservation Districts to help farmers, landowners, and other program participants determine when a permit is or is not needed. This fact sheet is intended to provide clarification for our respective staff and is not intended for general distribution to the public.

Water is used in agricultural, commercial, and other activities. These activities may require the addition of soil amendments such as fertilizer, pesticides, and herbicides, and involve soil disturbing practices. If proper soil and water conservation management practices are not used, these activities can contribute significantly to water pollutants including sediment, nutrients, and pathogens. Application of proven conservation practices to agricultural and other lands maintains productivity while protecting and conserving Tennessee's natural resources.

Implementation of some types of conservation practices on agricultural land requires coverage under Construction Stormwater Permits (CGP) or Aquatic Resource Alteration Permits (ARAP). To assist agency field staffs and Soil Conservation District employees with identification of conservation practices which require State permits, NRCS, TDEC, TDA and TACD cooperated in an agreement to produce the attached fact sheet. This fact sheet enables personnel to properly advise landowners on types of conservation practice activities that may require coverage under a CGP or an ARAP and what types of activities are exempt from permit coverage.

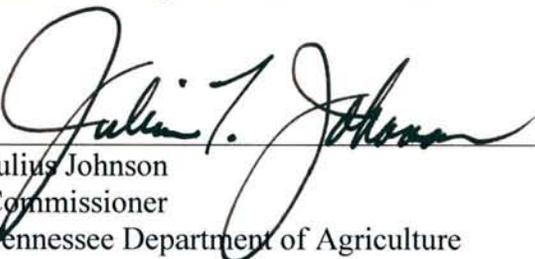
This fact sheet will help streamline the permitting process and, perhaps more importantly, identify cases where permits are not needed. This will expedite the application of conservation

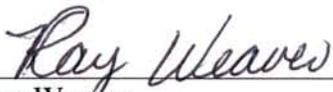


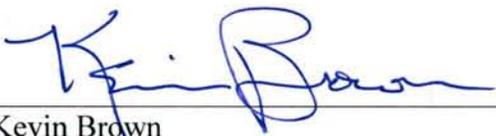
practices on the private lands of Tennessee. The guidance contained in this fact sheet is effectively immediately.

We appreciate these cooperative efforts that ensure the protection of Tennessee's natural resources. Your work, at the field level, is paramount to our success and we sincerely appreciate the work you do on behalf of all Tennesseans.


Robert Martineau
Commissioner
Tennessee Department of Environment and Conservation


Julius Johnson
Commissioner
Tennessee Department of Agriculture


Ray Weaver
President
Tennessee Association of Conservation Districts


Kevin Brown
State Conservationist
USDA Natural Resources Conservation Service

Attachment:

“NRCS Conservation Practices: Construction Stormwater Permit & Aquatic Resources Alteration Permit Requirements”



NRCS Conservation Practices: Construction Stormwater Permit & Aquatic Resource Alteration Permit Requirements



Fact Sheet

Page 1

June 2012

This fact sheet was developed with agreement between TDEC, NRCS, TDA and TACD to inform and assist their respective field staff and Soil Conservation District (SCD) Employees, to better and more accurately assist landowners on activities that may require a Construction Stormwater Permit (CGP) or an Aquatic Resource Alteration Permit (ARAP) and what types of activities are exempt from permit coverage (or are exempted if performed under the Practice Standards as stated in the NRCS Field Office Technical Guide)¹. This fact sheet does not attempt to deny or limit a landowner's exemption under state law¹, but we do encourage landowners to seek agency or professional guidance prior to performing activities that may impact state regulated waters.

Background:

The Tennessee Water Quality Control Act of 1977 authorizes TDEC to administer the federal National Pollutant Discharge Elimination System (NPDES) program.

The NPDES program was developed to address the various sources of water pollution through a permit process which requires the implementation of Best Management Practices (BMPs) to reduce the discharge of pollutants to our creeks, rivers, and lakes.

Agricultural production uses water, requires the addition of soil amendments such as fertilizer, pesticides and herbicides, and involves soil disturbing activities.

As a consequence, if proper soil conservation management practices are not used, agricultural lands can contribute significantly to water pollution; including sediment, nutrients, and pathogens.

Although the Act¹ generally exempts agricultural and forestry related activities from needing a permit, there are some activities that may still require a permit.

This fact sheet assists NRCS, SCDs, TDA, and TDEC properly advise landowners on what types of conservation practice activities may require coverage under a CGP or an ARAP and what types of activities are exempt from permit coverage.

1. When NRCS Conservation Practice Standards are adhered to, and the activities are associated with the prevention or reduction of soil erosion and sedimentation on agricultural and forestry lands, the following practices are exempt from needing a CGP:

Grassed waterways, diversions, terraces, filter strips, grade stabilization structures, Wetland Reserve Program practices, water and sediment control basins, lined waterways, and access roads.

Please check with the local NRCS, SCD, TDA, or TDEC Environmental Field Office with any questions or concerns regarding agricultural conservation practices that disturb one or more acres of land and do not meet the exemption criteria above, or that are located in, or adjacent, to a stream, river, wetland, or lake.

2. What agricultural activities need coverage under a CGP?

Construction of any building and associated spoil piles and road/traffic area that disturbs 1 acre or more of agricultural or agriculture-related operations should inquire from TDEC the need to obtain coverage under a construction permit for stormwater discharges.

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USDA and NRCS have developed effective erosion-control and nutrient-management practices that can sustain yields and protect the natural resources that produce them. A list and copies of NRCS Conservation Practice Standards may be found on NRCS' Tennessee website link:

<http://www.nrcs.usda.gov/wps/port al/nrcs/main/national/technical/fotg>

¹ T.C.A. §69-3-120(g) states that *Nothing whatsoever in this part shall be so construed as applying to any agricultural or forestry activity or the activities necessary to the conduct and operations thereof or to any lands devoted to the production of any agricultural or forestry products, unless there is a point source discharge from a discernable, confined, and discrete water conveyance.*



Continued from Page 1:

3. If the landowner is enrolled in a federal and/or state cost share program and abides by NRCS Conservation Practice standards, do they still need to obtain coverage under a CGP?

Even if NRCS Conservation practices are installed according to the NRCS Field Office Technical Guide, the landowner will still need to obtain coverage under a NPDES CGP permit for land disturbances greater than one acre and associated with an actual structure; such as a large barn, house, recreation pond, or on Concentrated Animal Feeding Operations (CAFOs²) where coverage under a CGP may be needed to construct waste storage, transfer, and/or treatment facilities.

4. Will the landowner need to pay a fee for coverage under the CGP?

Yes. The fee is paid upfront along with the application submittal:

Project Size	Fee
1-5 Acres	\$250
5-50 Acres	\$1,000
50-150 Acres	\$4,000
150 + Acres	\$7,500

The fee schedule may be found at:

<http://www.tn.gov/environment/permits/conststm.shtml>

For further information on the CGP:

www.tn.gov/environment/permits/conststm.shtml

5. The following NRCS Conservation Practices require notification to TDEC and may need coverage under an Aquatic Resource Alteration Permit (ARAP):

- (326) Dam
- (348) Dam Diversion
- (378) Pond (if located in or adjacent to a stream, river, wetland, or lake).
- (398) Fish Raceway or Tank
- (436) Clearing & Snagging
- (500) Obstruction Removal
- (580) Streambank and Shoreline Protection (unless the length of affected stream is less than 50ft)
- (584) Channel Stabilization
- (574) Spring Development (only if building an impoundment, cofferdam, or reservoir).

(The numbers in parentheses correspond with an NRCS Conservation Practice Standard).

All other NRCS Practices, if installed in accordance with an NRCS Conservation Practice Standard, are exempt from obtaining coverage under an ARAP.

For further information on ARAP:

www.tn.gov/environment/permits/arap.shtml

A listing and specification details on NRCS' Conservation Practice Standards may be found under NRCS Technical Resources at the following link:

www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/fotg



The Tennessee Association of Conservation Districts (TACD) assisted in the production of this Fact Sheet. <http://tnacd.org/>

This fact sheet is intended to clarify state regulatory requirements. Please be aware that some projects may also require federal permits:

TVA 26A requirements: www.tva.com/river/26apermits/regs.htm

U.S. Army Corps of Engineers §404 requirements: www.lm.usace.army.mil/cof/

² For more info on CAFOs, please see: <http://www.tn.gov/environment/permits/cafo.shtml>