

Agricultural Nonpoint Source Abatement and Control Program
Frequently Asked Questions
Updated for Round 19 (New Q&A Highlighted – 11/30/12)

Eligibility

Q. What components of a roofed heavy use area are not eligible for cost-share assistance through the AgNPS Program?

A. Any items that are not directly defined under the appropriate NRCS-NY Standard(s) used for the design and implementation of a roofed heavy use area system are not eligible for state assistance payments or to be used as a part of the landowner contribution. Examples of these ineligible items include: feed alleys, livestock stalls, or side wall enclosures. The completed practice system must be operated and maintained for the water quality purpose for which it was cost-shared for at least its designated lifespan. *(Round 19, 2012)*

Q. Is permanent seeding between vineyard and orchard rows considered Cover Crop (NRCS-NY Standard 340) or Conservation Cover (NRCS-NY Standard 327) for purposes of three year cost sharing and use of AEM Planning Tool for Cover Crop?

A. The correct NRCS Standard to be applied for permanent seeding between vineyard and orchard rows is Conservation Cover (NRCS-NY Standard 327), which applies on all lands needing **permanent** vegetative cover for reasons other than forage production or critical area planting. Because the appropriate practice system calls for permanent vegetative cover, and fits NRCS-NY Standard 327, cost share through the AgNPS Grants Program is not eligible for the same acreage for a three year period. In addition, the AEM Cover Crop Planning Tool does not apply for the implementation of Conservation Cover (NRCS-NY Standard 327). *(Round 19, 2012)*

Q. Would excluding livestock and establishing a marginal pastureland wetland buffer (CREP CP 30) that meets the appropriate NRCS-NY Standard(s) qualify for preference points pursuant to the Round 19 Proposal Rating Sheet?

A. Yes, the purpose of the preference points is to encourage the adoption of livestock access control and buffers for all hydrologically sensitive areas, including wetlands. In order to qualify for the points, all livestock on the farm must be excluded from all wetlands where they currently have access. *(Round 19, 2012)*

Q. Regarding the Screening Tool for Ag Waste Storage: if the District is resubmitting an unsuccessful application from a previous AgNPS Round, is it necessary to provide an updated Farmer Review and Certification Page if nothing has changed in the planning/screening for the BMP System?

A. Yes it is necessary to provide a current Farmer Review and Certification page. By providing the certification page, the farmer and AEM Planner agree that the conditions and water quality purpose for the BMP System have not changed. *(Round 19, 2012)*

Q. Can the AgNPS Program provide cost share for BMP Systems that utilize NRCS Standards from other states for the purpose of design, implementation, and certification?

A. BMP Systems cost-sharable under the AgNPS Grants Program must be identified in the Ag Practices Catalog and the individual Conservation Practices must meet NRCS-NY Practice Standards. The AgNPS Program funds proven technology in NYS to address agricultural NPS pollution concerns. If NRCS-NY has approved the use of a particular standard or suite of standards to address a NPS pollution concern, standards from other states cannot be used in place of the NRCS-NY standard(s). If no NRCS-NY Practice Standard exists for a particular NPS pollution concern, then the Practice must be designed to meet nationally recognized standards (e.g.

American Concrete Institute Standards). All practices implemented must be approved by an individual with appropriate approval authority. (Round 19, 2012)

Q. There are farmers in the county that are in need of dike repair to protect the water resources on their farms and to protect the bay for farm stormwater runoff. Can you tell me if the USDA NRCS Dike BMP would be eligible for funding through the Ag Nonpoint Source Pollution grant program?

A. The NRCS-NY Dike Standard (356) is an eligible component practice under the Streambank and Shoreline Protection system listed in the Agricultural Management Practices Catalog.

Q. Can the AgNPS Program cost share the construction of a ramp into an existing manure storage to facilitate the clean out of manure? The existing storage does meet NRCS Standards, but clean out is difficult.

A. Construction of the clean out ramp would not be eligible in an existing certified storage as it is not a standalone water quality BMP.

Q. If a farm is under a consent order from DEC, are they eligible for funding through the AgNPS program?

A. A farm would not be ineligible because of the consent order. It should be noted, however, that due to the time frame of the grant program, applicants should not expect to use grant funds for a problem that requires an urgent, immediate remedy. (2002, Round IX)

[UPDATED – 11/4/10] Q. Referring to Question 5. "Are all regulated CAFO farms compliant with appropriate requirements? (CAFO = Concentrated Animal Feeding Operation.)" Can a CAFO that has not yet met CAFO requirements be included on an application?

A. No, a CAFO that has not met CAFO requirements is not eligible to be included on an application and cannot be considered for funding. (2004, Round XI).

The Department of Environmental Conservation recommends and the Ag NPS contract requires that funding not be provided to a CAFO that has been issued a Notice of Violation under the terms of the CAFO General SPDES Permit by which the farm is permitted at time of application (CWA Permit – GP-04-02 or ECL Permit – GP-0-09-001). If a CAFO that is part of a funded project receives a Notice of Violation for either type of permit, it must agree to a consent order with a compliance schedule or otherwise resolve the Notice of Violation with DEC, in order to release Ag NPS funding **[UPDATED – 11/4/10]**.

Letter from Division Director to Undisclosed District (January, 2006) "The Round XI RFP requires that participating farms be in compliance with all federal, state, and local laws, rules, and regulations. The DEC-Division of Water has informed us that the Blank Farm is not in compliance with their CAFO General Permit and has not addressed the terms of the Consent Order issued on... When the Blank Farm is in compliance with the terms of the Permit, we can release funds for the projects identified on the Round XI plan of work. Until such time, however, no state funded expenses can be allocated to the Blank Farm's portion of the contract. Consequently, all entitled advances can not include state funds for the Blank Farm portion as identified on the plan of work."

Q. A Farm in the county grows potatoes. They also sort and dice and slice potatoes (process) to sell to restaurants, etc. The waste that comes from the processing of the potatoes is going to be trucked to the Regional Digester. The farm will be getting some of the liquid from the digester operation to use as a nutrient source on the fields that he grows potatoes on. He will need a storage facility for the liquid. Will he qualify for Round XIII? Does he meet the qualifications of an agricultural producer or is he a processing facility that would make him ineligible for funds?

A. The Agricultural Nonpoint Source Abatement and Control Program funds plans, and projects that will reduce and/or prevent the nonpoint source contribution from agricultural activities. Potato processing and its waste are considered a regulated point source. Therefore, the producer as a processor is not eligible for funding under this program.

If the District proposes a project that consists of activities which will reduce, abate, control, or prevent NPS pollution originating from the production side of the farm, then that project would be eligible for funding under this grant program.

This answer is consistent with a previous ruling made under Round XII:

Q. Can you confirm yes or no, if a farm operation (50 acres of vineyard) which also presses grapes would be eligible for cost share assistance? Specifically addressing the wastewater and sludge produced at the press operation.

A. If it is a facility that requires a SPDES permit to handle process waste, then it is considered a point source and therefore not eligible for funding under this program.

Q. Can the planning, design, and siting of a community anaerobic digester on private farm lands be funded through the planning segment of Round XIII?

A. Planning activities funded through the Agricultural NPS Grant Program are limited to AEM Tier IIIA/B/C.

Q. A SUNY College horse farm has requested that we look for grant funds to address some of the issues at their operation. My question is, are they eligible for funds through the EPF? The property is owned by the SUNY College Foundation INC and the individuals running the operation are state employees. Any guidance would be appreciated.

A. The objective of this program is to fund plans or projects that will reduce and/or prevent the nonpoint source contribution from privately owned agricultural land. The SUNY College horse farm does not qualify as agricultural land for the purposes of this program.

Q. What components of an Anaerobic Digester are eligible for EPF cost-share through the Ag NPS Program?

A. Only those stand alone component practices of an Anaerobic Digester that have a direct connection to water quality improvement. Examples of such components include equipment and installation of manure handling and treatment systems, such as the actual digester vessel, manure collection, transfer and conveyance systems, manure holding/storage/containment, solid separators, separated solids storage areas, manure mixers/agitators.

Q. A dairy farm in the county bottles its own milk. The bottling facility waste and the milkhouse parlor waste are a part of the same waste stream. Can the grant cost-share a Milkhouse Waste Treatment and Disposal System that will treat the waste from both the Milkhouse and the bottling facility?

A. The Agricultural Nonpoint Source Abatement and Control Program funds plans, and projects that will reduce and/or prevent the nonpoint source contribution from agricultural activities. The Program can fund the portion directly attributable to the milkhouse waste. Milk processing waste is considered a regulated point source. Therefore, treating and disposing of waste from the processing and bottling facility is not eligible for funding under this program.

Q. Does the actual Tier 3A plan need to be submitted with the application?

A. The proposal does not need to have the actual plan attached. The District is certifying that the planning requirements are met by answering "yes" on the application. The SW1 asks the highest level of Tier 3 planning per farm and the month and year completed. Any other pertinent planning details should be included in the project narrative.

Q. I'm writing a grant proposal for Petroleum Product Storage and Containment. Shipping charges for one tank can be a high as \$500. Would that be considered an eligible cost? Also there are permitting and registering fees which are part of the requirements to comply with County Health Codes... Would they be eligible?

A. The costs you describe could be eligible for cost-share assistance. These costs may also be considered as a portion of the matching contribution.

Q. If EQIP projects are used as match, does the NRCS planning process that takes place meet the requirement of having a tier 3 plan for Round 14?

A. Yes, if NRCS has completed the plan that meets EQIP requirements prior to proposal submission, this satisfies the Tier 3 planning requirement.

Q. Can grant funds be used to pay for site prep that includes demolition of existing structures?

A. Site prep is an eligible expense for the grant. It can also be used as a landowner contribution.

Q. Can grant funds be used to pay for roof structures where a consultant engineer will not allow/approve a wastewater treatment strip?

A. Grant funds may be used to cost-share a roof structure if the project engineer documents that the roof is needed to meet the water quality objectives of the planned best management practice. This alternative may be costly. If proposing this alternative, the Screening Tool for Covered Heavy Use Areas must be completed, signed and submitted with each copy of the proposal. (Updated for Round 19).

Q. If a landowner has a documented need for manure storage and is planning to upgrade facilities altogether, is a concrete manure storage, built under a barn as a new barn is constructed, eligible for cost-share assistance through the state grant program?

A. Yes, the Waste Storage Facility, NRCS Standard 313, built under the barn is eligible for cost-share assistance through the Ag NPS Grant Program. Note, please see page 2 of the Round 19 RFP for funding eligibility details for Waste Storage Facilities.

Q. Are Bedded Packs [or Composted Bedded Packs] eligible practice system[s] for manure storage and feeding? If so what components would be cost shareable?

A. Yes, both Bedded Packs and Composted Bedded Pack Systems for manure storage or composting are eligible practice systems through the Ag NPS Grant Program. Components that are an integral part of the practice standard being applied may be considered for state funding. Other related or indirect components may be eligible as a match. The following guidance was prepared in 1995 regarding the consideration of funding for practices not listed in the *Agricultural Management Practices Catalog* and is published in the current Guidance Manual:

Non-Listed BMPs

BMPs not listed in the "Agricultural Management Practices Catalog" will be considered for funding with the inclusion of an adequate evaluation component, which assesses the effectiveness of the BMP in reducing or preventing agricultural nonpoint source pollution. No state funds may be used for evaluation or monitoring activities. (Ag NPS Program Guidelines, 5/17/95)

Q. Are solar systems for livestock watering eligible for payment?

A. Yes, a solar powered alternative watering system is eligible and could address water quality, if a part of a grazing system with livestock exclusion while also conserving energy at the same time.

Q. Relocation of silage storage away from stream and floodplain is the best alternative for water quality. The new silage storage will include the proper treatment controls. Is relocation of silage storage cost-sharable under AgNPS?

A. Relocation of silage storage with the proper pollution controls meeting NRCS Standards is a cost-sharable practice. The proposal must fully explain this alternative and the benefits associated as it may be a very costly solution. If the relocation of the silage storage being proposed is a more costly alternative to traditional treatment, a higher cost-share contribution from the farmer should be considered.

Eligible Match

Q. Could you please give some guidance on where to put NYSERDA funds on the SW-2 budget form for Districts submitting methane digester proposals that need these additional state dollars to be viable?

A. NYSERDA funds can be used as a match for EPF funds under the Ag NPS Program. These funds should be noted under landowner contribution.

Q. Can the cost which would have incurred for an item donated to a farmer for the completion of a best management practice, be used as landowner In-kind matching funds?

A. Yes, the cost that would have been incurred if it were not donated may be considered when calculating landowner match.

Q. Can FLOWPA dollars be used as a landowner match?

A. FLOWPA dollars cannot be used as a landowner match because FLOWPA funds originate from state sources.

Agricultural Waste Storage Screening Tool

Q. Item number 14 of the Screening Tool requires that test pits be conducted in part to determine soil permeability. Does the soil permeability require laboratory analysis? Who is responsible for the costs of the test-pits?

A. Yes, the soil permeability does require laboratory analysis for earthen manure storages. However, due to the time frame for submitting applications under the RFP deadline, it will be acceptable to indicate that the soil samples have been taken and sent to the lab. Indicate on item number 14 that the results are pending if they can not be obtained before the proposal submission deadline.

A professional engineer or an NRCS employee with appropriate job approval authority should be able to observe the test pit to make a determination on the location, type and estimated cost of the facility.

The landowner is responsible for the costs of the test-pits. The costs can not be reimbursed by the state or used as landowner match because it must be completed before the proposals are submitted. The cost of the laboratory analysis may be covered if sent to the NRCS lab in Lincoln, Nebraska.

Q. Are the Screening Tool and test pit required for a 7 day manure storage that will consist of a concrete pad with 3 to 4 foot walls adjacent to a heifer and dry cow barn?

A. If the standard does not require site specific soil data for the proposed type of structure, then a test pit may not be required. Please refer to the applicable NRCS Standard and consult with an engineer to determine whether a test pit is required for your proposed type of waste storage. If the proposed project falls under NRCS Standard 313, Waste Storage Facility, the Screening Tool must still be completed and attached, but question number 14 can be marked with an N/A if the test pit is not required for the specific type of structure.

Q. Does the Agricultural Waste Storage Screening Tool need to be completed for a farm that is requesting funds to evaluate an existing waste storage?

A. The Agricultural Waste Storage Screening Tool would not be required in the application for a farm proposing to evaluate an existing waste storage. However, if the evaluation results in a storage that meets NRCS Standard 313 either through a certification by the engineer or by implementing necessary improvements, then the completion of a CNMP meeting NRCS Standard 312 is required by the program.

Q. If the CNMP already exists, what must be included with the application for an agricultural waste storage system?

A. The Tier 3A, Screening Tool checklist must be completed and submitted with each proposal to verify that the items have been reviewed with the farmer. The screening tool addresses items not already in the CNMP, including conducting test pits for certain types of storages. If the grant is awarded, the costs of updating the CNMP so that it reflects the management of the stored waste may be used as a component of the landowner's match.

Q. Is the Screening Tool required for an uncertified existing storage that needs to be evaluated by an engineer and properly expanded?

A. Yes, the Screening Tool would still need to be completed prior to submitting a proposal to expand an existing manure storage.

Q. Is the Screening Tool required for a bedded pack winter feeding system?

A. If the bedded pack winter feeding system is designed and certified under the NRCS Standard 313 Agricultural Waste Storage System, then yes, the Screening Tool is required to be submitted with the application.

District Resolution

Q. Can one resolution be obtained that authorizes the District to submit multiple applications?

A. Yes, one resolution can cover more than one grant application. Please list all of the proposals that the resolution covers and submit the resolution with all copies of those proposals.

Operation and Maintenance Guidelines

Q. What is the Operation and Maintenance lifespan for Petroleum Product Storage, Spill Prevention and Containment?

A. 25 years.

Contract Requirements

Q. What is the contract term for implementation projects funded under Round 19?

A. See page # 7 under Contracts, "the standard term for implementation projects will be three full construction seasons plus three months for project administration and completion of the report".

Q. What is the contract term for planning projects funded under Round 19?

Proposal Format

Q. Can before and after photographs of past projects be included in a proposal to demonstrate the effectiveness of a practice?

A. Yes, photographs may be included as supporting documentation.

Recommended Rates

Q. Can an applicant mix recommended and actual salary rates for District staff?

A. No. Applicants can assign either recommended or actual rates for District staff but cannot mix the two.