

General Protocols for Planners and Reviewers

Contacting Reviewers

- The reviewers should be contacted via email or phone by Courtney Brock and given seven days to review the document.
- If the reviewers find fault within the CNMP, the Team Leader must be contacted immediately in order to ensure that the CNMP is completed by the 35-day mark.

CWA Guidelines

- When using the website and Collaborative Work Area, the planners are to check in regularly under the “Planners Bits and Pieces” module. Important updates and news will be stored there.
- When checking out/checking in documents, follow the guidelines listed in the CWA guidelines sheet.
- Never hit the cancel button in the middle of a check-out/check-in. Doing this will cause the file to be lost.
- Always rename the file you are working on during or immediately after check-out, and store the file in a place where you can find it.
- After checking-in a document to the CWA, make sure that it **appears** in the CWA correctly and is **not** still checked out to you. After ensuring that it was loaded correctly, **delete** the file stored on your hard-drive. Doing this will ensure that no duplicates of plans are made and that the most current version is used.

Rules for Engineers

General

- Engineers must meet the TSP requirement in each state they wish to work in.

Adequacy Engineering

When signing CNMP:

- You're certifying the volume in permit is on the ground avoiding checking another's engineers work and making judgment calls.
- When designed by professional or certified engineer – design is ok. If validating on ground – design is what is built – sign off. If not correct, back to original engineer.
- 50% difference – write up/document original design is not what is best for operation and does not sign CNMP. If you do – you may be saying it meets all applicable standards.
- Clause on signature page + lawyer sheet – need to be signed by producers and all team members.
- Document your findings well. Design updated in checklist. Key is documentation.

Engineering Guidance (*updated 9/23/03*)

1. Checking the original design

The EMS CNMP engineer should NOT check the design of another non EMS PE. By doing so you may accept the liability from the original engineer. This likely varies from state to state, but the exact wording from the Texas Engineering Practice Act is:

“However, an engineer, as a third party, may alter, complete, correct, revise, or add to the work of another engineer when engaged to do so by a client, provided:(1) the client furnishes the documentation of such work submitted to the client by the first engineer;(2) the first engineer is notified in writing by the second engineer of the engagement immediately upon acceptance of the engagement; and (3) any work altered, completed, corrected, revised, or added to shall have a seal affixed by the second engineer. The second engineer then becomes responsible for any alterations, additions or deletions to the original design including any effect or impact of those changes on the original engineer’s design.”

When one private engineer reviews and calls into question another private engineer’s work it is easy to imagine getting in adversarial relationships, and ultimately into lawsuits. Engineering designs often call for professional judgment, and one engineer may accept the upper value of, say removal by solid separation where another would choose the lower value. This would result in different designs. Where storage/treatment facilities have been in place several years it is possible that design procedures have changed, and trying to find the appropriate design criteria that was in place when the design was done could prove difficult.

In order to keep the liability with the original design engineer, contractor, and/or producer, and for the reasons stated above, EMS planners of CNMPs are NOT to check or review the adequacy of design work done by qualified engineers. EMS will only determine that the constructed capacity was as large as or larger than the capacity required for the permit.

2. Signing the CNMP

Most EMS engineers take the position that a CNMP exists when it is written, but it may or may not be certified. It will only be certified when all the required signatures are in place, and the engineer’s signature is required. Deciding when a CNMP is completed for purposes of payment is not an engineering concern and will be left to others.

In cases where the design was not done by a qualified engineer (NRCS or PE) then the engineer should NOT sign the CNMP unless certain conditions are met. Where it is known ahead of time a design was not done or not by someone with the proper credentials, the producer should be informed that in order to have a CNMP all the storage/treatment structures must have been designed by a qualified engineer and built according to the design. Otherwise, the CNMP engineer will not sign the CNMP, and the process will be delayed until a qualified engineer determines what corrective actions are needed, **unless the producer signs a statement that he will retain a qualified engineer and implement any changes determined by that engineer. In this case the engineer could sign the CNMP and document the deficiencies.** The CNMP may or may not then be considered certified according to who has the approval authority. Some states will accept the CNMP under these conditions, some may

not. **One final exception would be the case where the engineer has been certified to practice engineering in that state and using professional judgment finds that the storage/treatment can be determined to be adequate and elects to sign the CNMP.**

3. Guidance in determining adequacy for different situations

In order to be consistent in the service provided by engineers in the development of CNMPs and also to minimize exposure to litigation of both EMS and the engineers making determinations as to adequacy of the capacity, the following is offered as guidance.

Determination regardless of situation:

The determination that the storage capacity is adequate means that the required capacity in the engineering plan or approved state permit has been verified on the ground.

The wording in the CNMP needs to be such that the signature only represents a determination that the storage capacity is adequate. **Do NOT sign the signature page if it indicates that the engineer is certifying that this element of a CNMP meets applicable local/state/and federal standards, since it is not possible to verify the construction techniques used.**

Determination depending on one of these 4 situations:

Situation 1.

The storage/treatment facility was not designed by a qualified engineer.

Action:

In this situation it does not matter how closely the constructed facility matches the design, because the design is not valid. The CNMP should in general NOT be signed by the engineer, as the storage/treatment facility design should be done by a qualified engineer other than the engineer doing the CNMP. Design of the facility is not part of the CNMP development process. An exception would be a situation where the producer agrees to retain a qualified engineer and implement the engineer's findings, in writing. In this situation the engineer could sign the CNMP noting all deficiencies. Another situation where it would be appropriate to sign the CNMP is when in the considered judgment of the engineer who is certified to practice engineering in that state, the storage/treatment can be determined to be adequate.

Situation 2.

The present loading conditions are the same or less than those in the original design that was done by a qualified engineer (NRCS engineer or a PE) and the constructed facility has the same capacity or greater than the designed capacity.

Action:

In this situation recording the findings and signing the CNMP would be in order. The dimensions of length and width will be field verified. The depth determination will be the best information available in most states, and not physically determined. (Texas would be an exception)

Situation 3.

The storage/treatment facility was done by a qualified engineer, but the constructed facility was not built large enough to contain the design capacity; was relocated or the shape was altered.

Action

If the producer includes a signed statement in the CNMP agreeing to make necessary corrections under the approval of a qualified engineer, the engineer may sign the CNMP “that the facility has the capacity or is planned to have the capacity,” even before the facility is physically altered to correct any deficiencies depending on the wording. The engineer should record the deficiency in the adequacy statement generally located in Appendix C. The “signature” wording should indicate either present or planned adequacy of the capacity has been determined as adequate. In some situations the determined capacity may be less than the designed or permitted capacity by an insignificant volume, and the engineer may use judgment in deciding whether or not to accept the lesser capacity. Since an increase in animal units can not exceed 10 percent, a minimum of 90 percent of design capacity should be determined when accepting a lesser volume.

In situation 3 the engineer should NOT sign the CNMP if the wording states that the engineer’s signature “certifies that the capacity equals or exceeds the design capacity” or if the CNMP is worded so it does not allow for planned corrections.

Situation 4.

The storage/treatment facility was done by a qualified engineer, but loading has been increased due to expansion by 10% or more

Action

Either a new design is needed showing that even with the expansion the capacity is still adequate, or that the facility must be modified to provide additional storage capacity. The new design should be done by a qualified engineer and not the engineer developing the CNMP. The engineer should sign the CNMP only if the producer agrees in writing to retain an engineer and implement any needed modifications to the present storage capacity.

4. A statement that an engineer might consider placing in the adequacy determination section

Information regarding storage capacity and condition of existing facilities are based on information provided by the producer and observations made on the day of the farm review for the CNMP. No statement in the CNMP is intended to certify that the facilities located on this farm meet local/state/and federal standards or requirements of the existing permit. Statements in the CNMP are observations and are not intended to alter previously made statements or designs.

5. EMS Engineers certifying the work of other EMS engineers

When an engineer registered in a state is going to review and sign as the engineer certifying the CNMP, but another engineer is doing the work,

certain conditions need to be met to insure compliance with good engineering principals and state registration laws.

When the engineer doing the work is not registered in the state where the CNMP is being developed, the engineer signing the CNMP must be the reviewer. In addition, the engineer doing the work needs to notify the engineer who will certify the CNMP that direction is needed for doing the work. The signing engineer must be available for consultation. Simply reviewing the CNMP is not adequate.

Rules for Agronomists

General

- Ensure that the state's 590 standard requirements are met.

Accounting for commercial fertilizer needed in plan to meet 590 standards

- Need to be specific – X lbs. of this analysis of commercial fertilizer to comply with standards. To make up remaining balance be made of XYZ – analysis meet these recommendations applied when.
- Handled in narrative.
- Sign off from person receiving manure applied to CNMP.

Allocate manure for 5 years of something less?

- Simple rotations –allocate 2 years (corn/beans)
- Continuous - allocate 1 year
- Assign someone to write guidelines / criteria – look at checklist for each state:
 - If not a state requirements (2-3 years)

Field Naming and Numbering

- Use numbering system defined by producer.
- Cross reference with NRCS numbers/identifiers.

NMP/NUP/Conservation Plan and CNMP

- Up-to-date and current – if not, it will need to be redone.
- Conservation Plan - Definition of “Up-to-Date” meets 590 requirements as a base.
- NMP - Definition of “Up-to-Date” meets 590 Standards or state regulatory standards.
- If you put NMP plan in CNMP – goes in Section 7
- Bring NMP into Section 7 (if it meets definition) – if additional things are included that are missing from NMP - add to this section.

Soil Types / Data / Descriptions

- Include only major soil types
- Describe major and reference minor soil types
- On non-HEL fields, make sure they meet T requirements before applying manure.

Wetland

- Disclaimer needed
- If not identified/ delineated, make sure the producer gets the proper documentation.

Rules for obtaining information from NRCS Field Offices

- Do not go, without the producer, to the NRCS office to get NRCS prepared conservation plan information (RUSLE, PI, as built drawings, conservation plans, etc).

- Make sure the producer the producer has provided written authorization to release any of the above referenced information
- Assure sure appropriate credits are document in the CNMP regarding such information

Current – Soil/Manure Test Results

- Soil Test- Not more than 5 years old, or as stipulated in NRCS's 590 standard, or as stipulated in State Regulation, whichever is less.
- Manure Test- Not more than one year old, or as stipulated in NRCS's 590 standard, or start regulation, whichever is more restrictive.

Exported Manure

Means manure and wastewater that is removed (sold or given away) from the generating facility by custom applicators or other landowners. Under this scenario the generating facility needs to do the following:

1. Provide a copy of the N, P, and K analysis
2. Record the name of the recipient(s)
3. Document the total volume sold or given away
4. Date(s) of the transaction(s)

In situations where the facility that generates and applies the manure and wastewater even though they do not own the land where the nutrients are being applied and/or produces the crops, the following needs to do the following:

1. Follow the same allocation and documentation procedures as required for owned land, *or*
2. Apply based on crop removal according to soil test results.