



Chesapeake Bay Program Office

2023 PAG-12 Update

NPDES General Permit for Operation of Concentrated Animal Feeding Operations

DEP Agricultural Advisory Board
SCC Nutrient Management Advisory Board
Joint Meeting

August 18, 2022

Tom Wolf, Governor

Ramez Ziadeh, P.E., Acting Secretary

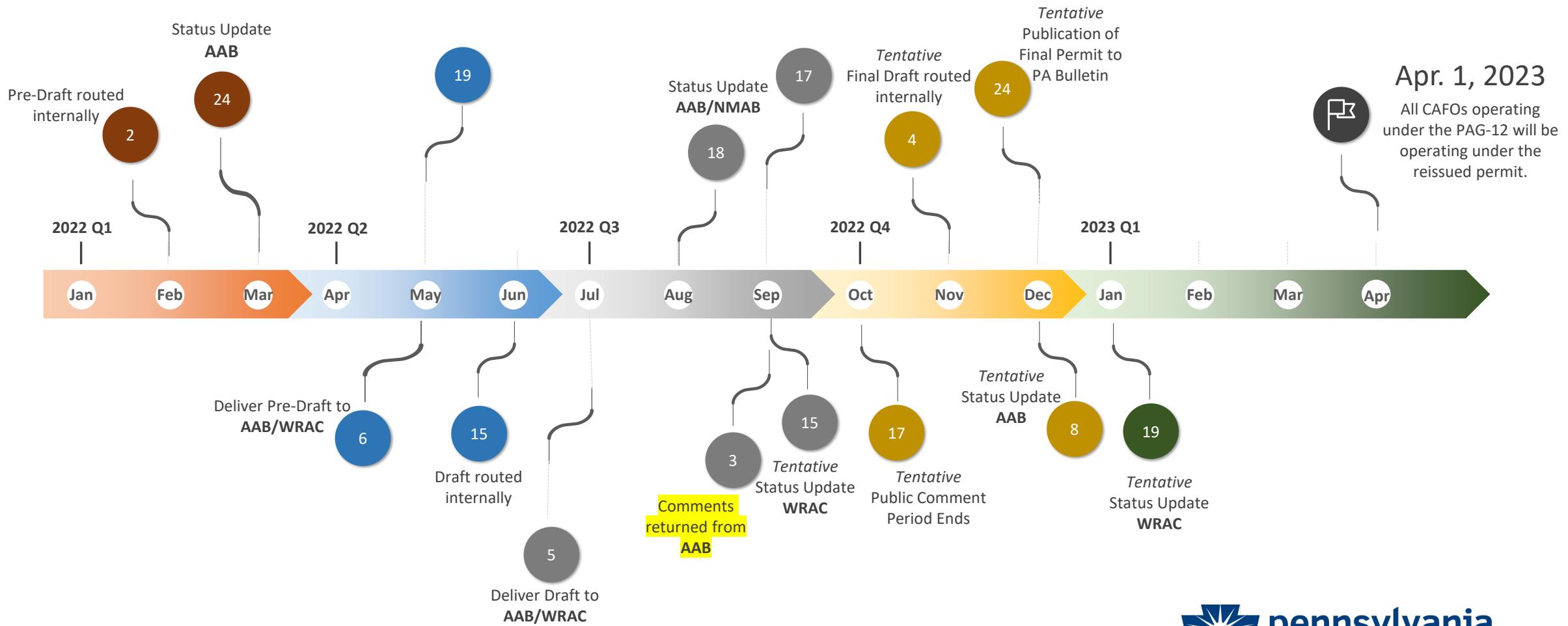
PAG-12 Update Agenda

- Accomplishments to date
- Project timeline
- Summary of comments received
 - Proposed actions
- Proposed changes in the pre-draft of the PAG-12

Accomplishments to Date

- AAB PAG-12 Subcommittee Meetings
 - July 27, 2021 (EPA attending)
 - October 28, 2021 (EPA and DEP attending)
- AAB PAG-12 Subcommittee comments delivered to DEP
 - October 12, 2021
- DEP Central Office solicited comments from DEP Regional Offices
 - October 25, 2021
- AAB PAG-12 Subcommittee continuing outreach to PA Agriculture
- Pre-draft of the permit delivered to WRAC and AAB May 6, 2022
 - Changes were informed by comments received from the AAB PAG-12 Subcommittee
- No comments received from AAB or WRAC on the Pre-draft.
- Draft of the permit delivered to WRAC and AAB July 2022
 - Changes were informed by comments received from regional DEP staff

Proposed Timeline



Summary of Comments Received and Proposed Actions

CONTEXT	DISCUSSION	PROPOSED ACTION
Changes to Permit	Identify solutions <i>Will be addressed within the timeline outlined on the next slide.</i>	Add or remove permit language where feasible and does not conflict with regulatory or statutory requirements.
Additional or Clarified Guidance	Identify solutions <i>Long, medium and short-term timelines outside the scope of the timeline proposed for permit approval.</i>	<ol style="list-style-type: none"> 1. Provide resources such as a model NOI, compliance checklist, and alternative digital format(s) of existing forms for use by the Ag. community. 2. Provide guidance and clarification to DEP staff in internal inspection SOPs
Procedural Efficiencies	Identify solutions <i>Long, medium and short-term timelines outside the scope of the timeline proposed for permit approval.</i>	<ol style="list-style-type: none"> 1. Provide centralized guidance and resources to DEP staff for electronic inspections 2. Provide centralized guidance for electronic submission of permit documents
Regulatory/Statutory	Beyond the scope of this project	No changes
No Change Requested	No change requested	No changes

▶ PAG-12 Pre-Draft Proposed Changes (also in Draft)

In addition to retaining the changes made through the October 31, 2020 amendment to the 2018 General Permit, DEP is proposing the following additional (minor) changes for the 2023 General Permit:

- Remove the requirement for existing operations that will become CAFOs as a result of new standard animal weights to apply for NPDES permit coverage no later than April 1, 2019, as this requirement is no longer applicable.
- Remove language in the General Permit concerning possible revocation of coverage or enforcement action in the event a CAFO fails to submit an annual report or pay and annual NOI installment fee because the language is unnecessary (i.e., DEP may take appropriate action for any non-compliance, not just failure to submit reports and fees).
- Clarify that the payment of an annual NOI installment fee is not required if DEP approves a Notice of Termination (NOT) prior to the due date. This is consistent with other general permits.
- Since issuance of the 2018 General Permit, DEP has developed a standardized Notice of Termination (NOT) form. DEP proposes to require use of this form to notify DEP that permit coverage is no longer needed.

PAG-12 Draft Proposed Changes

- The definitions for 25-year/24-hour storm and 100-year/24-hour storm have been updated to refer to National Oceanic and Atmospheric Administration (NOAA) Atlas 14 point precipitation frequency estimates, which replaced the National Weather Service's Technical Paper 40.
- Part B I.D of the General Permit has been updated to include the proposed language below. This language existed in prior versions of PAG-12 and has been useful for facilitating corrective actions in response to DEP inspections.

The permittee shall ensure that activities and facilities, including the production and the land application areas under control of the owner and/or operator, associated with the CAFO operation do not create a danger of pollution, or cause or contribute to pollution of surface waters. In response to its own finding of water quality problems or based upon documented evidence, DEP may, upon written notice, require the permittee to develop and implement additional BMPs or use other control measures to promptly abate the pollution problem and to ensure that the water quality of the receiving water is protected and maintained and to ensure that clean water is diverted, as appropriate, from the production area.

PAG-12 Draft Proposed Changes

- Clarification in Part C I.D.2 and D.3 (relating to winter manure application) that the NMP must contain a determination of adequate manure storage capacity for the winter period and provide sufficient capacity at the start of winter to implement the NMP for liquid and semi-solid manure storage facilities only.
- Clarification is proposed in Part C V.C (Freeboard) of the General Permit that the regulatory freeboard of 12 inches applies to any manure storage facility that is exposed to direct precipitation (in addition to ponds and impoundments) and the regulatory freeboard of 6 inches applies to any manure storage facility that is not exposed to direct precipitation, on operations with less than 1,000 AEUs.
- Clarification is proposed in Part C V.E (Leak Detection and Subsurface Drainage Monitoring) that in addition to monitoring drainage from leak detection systems beneath ponds and impoundments, monitoring must be done for any manure storage facility that is in-ground or below ground and has a leak detection system.
- In Part C V.F (Water Quality Management (WQM) Permits and Engineer Certifications), DEP proposes to clarify that a WQM permit is required to construct any manure storage facility that is exposed to direct precipitation (in addition to ponds and impoundments) and will have a liquid and semi-solid manure storage capacity of between 1 and 2.5 million gallons where the nearest downgradient surface water is classified as a High Quality or Exceptional Value Water or is impaired for nutrients due to agricultural activities.

PAG-12 Draft Proposed Changes

- DEP is planning to remove Part C V.F.3 (relating to prevention of discharges up to the 100-year/24-hour storm for CAFOs with swine, poultry or veal calves) because it is redundant with requirements in Part A of the General Permit.
- DEP is proposing to require the inclusion of operation-specific methods for the management or disposal of mass animal mortalities in an operation's Preparedness, Prevention and Contingency (PPC) Plan or emergency response plan that is required in NMPs. This information would need to be submitted with the NOI to remain covered under PAG-12. This requirement is in response to the 2022 avian flu outbreak and resultant need for the disposal of millions of poultry animals. DEP believes it is appropriate to conduct advanced planning for future possible outbreaks.

Summary

- Accomplishments to date
- Proposed changes in the Draft PAG-12
- Separate Initiatives
 - Supplemental reports
 - Guidance and technical resources for DEP Staff
- Project timeline

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