

US EPA ARCHIVE DOCUMENT

## Agriculture Webinar Questions and Answers

1. If the flow from a water management system is 98% agriculture stormwater and 2% urban, is this a point source?

Discharges from a discernible, confined, and discrete conveyance that are composed partially of agriculture stormwater should be evaluated on a case-by-case basis to determine whether it is a point source subject to CWA section 402 requirements. Within the state of Florida, there are examples of discharges from constructed marsh treatment systems called stormwater treatment areas (STAs) that have been determined to be point sources subject to CWA section 402 requirements. For each of these instances, the STAs were built in wetlands under a CWA section 404 permit, are highly managed, and discharge treated stormwater that is not composed entirely of agriculture stormwater. Therefore, depending on the specific circumstances, treated discharges from a water management system may be a point source subject to CWA if it is composed of agriculture stormwater and urban stormwater.

2. Can you offer additional information on how these criteria will affect the regulation of nonpoint source nutrient loads?

Nonpoint sources (NPS) are not regulated under the Clean Water Act (CWA). However, section 319 of the CWA provides a mechanism for federal funding states to assist them with implementing NPS controls. The 1987 CWA amendments established the section 319 grant program as a mechanism for funding States to assist them with implementing nonpoint source controls. See [http://www.epa.gov/owow\\_keep/NPS/cwact.html](http://www.epa.gov/owow_keep/NPS/cwact.html) for more information about the section 319 grant program.

Although the CWA does not regulate nonpoint sources, section 6217 of the Coastal Act Reauthorization Amendments of 1990 required coastal States with approved Coastal Zone Management programs to adopt measures for controlling NPS pollution including enforceable policies and mechanisms for agriculture and other nonpoint pollutant sources (e.g., urban, forestry, etc.). EPA approved Florida's Coastal Nonpoint Source program in 2008, in consideration of the 1999 Florida Watershed Restoration Act which includes, among other things, enforceable controls for certain nonpoint sources. The Florida Watershed Restoration Act is implemented by the Florida Department of Environmental Protection (FDEP), the Florida Department of Agriculture and Consumer Services (FDACS), Florida's water management districts, the Florida Department of Health, local governments, and the public. See also <http://www.dep.state.fl.us/water/nonpoint/>.

3. Are there any cutoffs below which small family farms will not be affected?

During the Agriculture Webinar conducted by EPA on December 7, 2010, FDEP offered the following answer to this question: "There are no size thresholds within our agricultural BMP [best management practices] program. If you are a producer, you need to implement your best management practices regardless of your size."

4. Does EPA agree with the presumption of compliance with NNC based on enrollment in the BMP programs?

In consideration of the process implemented by Florida for agricultural producers that are enrolled in the BMP program, EPA believes the presumption of compliance is reasonable. See more information on Florida's BMP program for agricultural producers at: <http://www.floridaagwaterpolicy.com/AtaGlance.html#Implementing>.

5. A new guidance memo in November requires numeric criteria in stormwater permits if reason to believe the discharge may impact water quality. Is the new policy and numeric nutrient rules applicable to stormwater discharges from agriculture?

The memorandum dated November 12, 2010, is not applicable to stormwater discharges from agriculture. See [http://www.epa.gov/npdes/pubs/establishingtmdlwla\\_revision.pdf](http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf).

6. Does EPA, DEP or FDACS know how many of the reported 11 million acres of agricultural land are enrolled in the BMP programs?

The Florida Department of Environmental Protection provided EPA the following language in response to this question.

The 2007 Census of Agriculture reports about 9.2 million acres in agricultural lands in Florida, which does include forestry lands. FDACS reports statewide enrollment of about 3.1 million acres of "traditional" agricultural lands as of December 31, 2010. Some of the acreage included in that figure may not require the use of BMPs if there is no production activity on it. About 5.3 million acres of the 16 million acres of forestry lands in the state are enrolled in FDACS silviculture BMPs. FDACS is continually working to enroll more producers into its BMP programs and provide technical assistance in implementing the BMPs. See more information on Florida's BMP program for agricultural producers at: <http://www.floridaagwaterpolicy.com/AtaGlance.html#Implementing>.

7. If a stream is deemed impaired for nutrients, will enrollment in the BMP program mean that no reductions will be required from farmers enrolled?

The Florida Department of Environmental Protection provided EPA the following language in response to this question.

No, the Florida Watershed Restoration Act requires the equitable allocation of allowable loads and load reductions among all sources of pollution that are contributing to water body impairment. With respect to reducing pollutant loads from farmers, the first step in meeting these load reductions is the enrollment by farmers in the agriculture BMP program and the subsequent implementation of BMPs by the farmer.

8. Is there a way for the public to find information on what farms are enrolled in the BMP program?

The Florida Department of Environmental Protection provided EPA the following language in response to this question.

The FDACS Office of Agriculture Water Policy is planning to post enrollment information on its website in the near future (<http://www.floridaagwaterpolicy.com>). In the meantime, you can call (850) 617-1729 or send an e-mail to [AgBmpHelp@FreshFromFlorida.com](mailto:AgBmpHelp@FreshFromFlorida.com).

9. Is FDACS/FDEP planning to revise BMP manuals to meet the stricter NNC?

During the Agriculture Webinar conducted by EPA on December 7, 2010, FDEP indicated that they were not aware of any planning efforts underway to revise the BMP manuals. However, like any technology-based BMP program, an important component is the ongoing evolution of the BMPs as more data on their effectiveness becomes available. The agriculture BMP program is still in its first iteration of BMP manuals and the implementation of BMPs. As more data and information become available, these manuals and programs will evolve.

10. Will agricultural producers be able to participate in trading programs?

EPA is supportive of water quality trading programs and encourages States to consider this as a tool for implementing Clean Water Act programs. See <http://water.epa.gov/type/watersheds/trading/finalpolicy2003.cfm> for additional information on EPA's policy on trading.

11. Why does DEP have the option of using either numeric or narrative criteria for CAFOs?

EPA's regulations allow water quality-based effluent limits for CAFO to be expressed as either narrative requirements or numeric requirements.