

LANCASTER COUNTY CONSERVATION DISTRICT STATEMENT OF POLICY

Policy and procedure for resolving complaints where accelerated soil erosion is occurring on agricultural lands

I. Purpose

To provide staff with clear guidance in order to produce a consistent response to complaints; to assist with prioritization of staff workload; to bring about a resolution and achieve compliance in a reasonable time frame.

II. Background

It is the stated mission of the Lancaster County Conservation District (LCCD) to focus on the stewardship of land, water, and related natural resources....to develop and implement programs that promote the stewardship of natural resources; and to enlist and coordinate help from public and private sources in accomplishing this mission. In achieving this mission, the District Board must prioritize staff time and allocate resources to those activities that best achieve the District mission.

The District has a current Level 3, Chapter 102 Delegation with the PA Department of Environmental Protection. Pursuant to this delegation, District staff must respond to all complaints where it is alleged that accelerated soil erosion is occurring as a result of earth disturbing activity. The predominant earth disturbing activity in Lancaster County is associated with agriculture. Lancaster County contains in excess of 400,000 acres of agricultural lands. As part of the Chapter 102 Delegation, the LCCD is expected to respond to both agricultural and non-agricultural complaints.

The Chapter 102 Delegation requires that the LCCD retain sufficient personnel in order to effectively carry out the delegation. On the other hand, the Board must prioritize workload produced by the current programs and responsibilities against available staff time, revenue streams, cost/benefit ratios, and local program goals. It is the goal of this policy and procedure to provide District staff with a clearly written policy and an efficient process for bringing about a timely resolution to legitimate agricultural complaints.

III. Policy

1. For as long as the Chapter 102 Delegation is in place, the Board shall maintain an Agricultural Compliance Review Committee (ACRC). This committee shall be comprised of at least 3 Agriculture members of the Board.
2. The Administrator shall identify a staff person to be responsible as the Agriculture Compliance Coordinator (ACC). The ACC will be responsible for managing all agricultural complaints. The ACC will refer cases to the ACRC, and the ACRC will review the case and make recommendations to the Board concerning enforcement.
3. District staff, in consultation with the ACC, will prioritize the request for assistance and determine if the proposed timeline as outlined in the inspection report and cover letter can be met.

4. District staff, in consultation with the ACC, may find it necessary to decline assistance to persons that are the object of an agricultural complaint. When it is determined that the District cannot service the cooperator in a timely manner, the responsible party will have an opportunity to contract with a third party vendor to perform required tasks. The District may decline assistance when District staff cannot perform the task in the required time.
5. In cases where the landowner is not the operator, the LCCD will consider the landowner and operator to be jointly responsible.
6. ACC will document all complaints using the Earth Disturbance Inspection Report. Copies of all Earth Disturbance Inspection Reports will be provided to the ACRC.
7. Complaints involving animal concentration areas will be considered Chapter 102 violations.
8. In most cases, a conservation plan or agricultural erosion and sedimentation control plan will prescribe the BMPs that are needed to resolve the complaint. The following relate to the conservation plan or agricultural erosion and sedimentation control plan.
 - a. In cases where a conservation or agricultural erosion and sedimentation control plan has not been developed, the responsible party(s) will have 90 calendar days in which to furnish the LCCD with a conservation or agricultural erosion and sedimentation control plan. LCCD staff shall reserve the right to critique a 3rd party conservation or agricultural erosion and sedimentation control plan to assure sheet, rill and gully erosion has been addressed.
 - b. After the conservation or agricultural erosion and sedimentation control plan has been furnished to the LCCD, the responsible party will have 2 seasons (Fall & Spring or Spring & Fall) in which to begin implementation of the BMPs needed to correct the cause for the complaint.
 - c. In no case will the implementation schedule of the conservation or agricultural erosion and sedimentation control plan in total extend beyond 3 years from the date at which implementation first begins.
9. In situations where a responsible party(s) fails to meet the timeframes in #8 above, the ACC will refer the matter to the ACRC for review.
10. A complaint will be considered resolved after those BMPs needed to correct the cause for the complaint are installed.
11. On occasion, the responsible party(s) may argue that financial hardship is preventing compliance. If a responsible party(s) fails to meet prescribed timelines because of financial reasons, the ACC will refer the matter to the ACRC for review.
12. The Board extends to staff the privilege to use discretion for complaints having limited impact to health, public safety, or the environment. If, upon investigation, the ACC determines that the complaint is given a low priority, the responsible party will be provided a copy of "*Pennsylvania Water Quality Action Packet for Agriculture*" and will be advised to complete and retain the form.

IV. Procedure

1. The ACC will receive and record incoming complaints. The ACC will manage the complaint until compliance is achieved.
2. Within 10 calendar days, the ACC will visit the site to determine the exact nature of the complaint. The ACC will document their findings, including Chapter 102 violations on an Earth Disturbance Inspection Report. The time clock begins from the date of the cover letter that accompanies the inspection report.
3. The responsible party(s) will be given the following deadlines in the inspection report.
 - a. Timeframe to submit to the ACC a conservation plan for controlling accelerated soil erosion-90 days.
 - b. After a conservation plan or agricultural erosion and sedimentation control has been furnished by the responsible party(s) to the ACC, it is the responsible party(s) responsibility to initiate implementation of all the BMPs needed to correct the cause for the complaint before the end of 2 consecutive seasons. (Fall & Spring or Spring & Fall)
 - c. The responsible party(s) must follow the operation and maintenance procedures of any installed BMPs as specified in the Pennsylvania Technical Manual.
4. If the responsible party(s) fails to implement or maintain after the 1st season, the ACC will generate a second Earth Disturbance Inspection Report.
5. If the responsible party(s) fails to achieve either the 90 day or the 2 consecutive season timelines as outlined in the Inspection report and cover letter, the ACC will document the conditions on an Earth Disturbance Inspection Report and the case will be referred to the Ag Compliance Review Committee for further discussion. If the ACRC believes that an enforcement action is necessary, a recommendation will be made for Board action.
6. After it has been determined that the BMPs needed to correct the cause for the complaint have been installed and maintained per BMP maintenance plan, a final inspection report shall be compiled and the case closed.