

Agricultural Compliance Program

The Maine Nutrient Management Program



Maine Department of Agriculture, Conservation & Forestry

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The Maine Agricultural Compliance Program was initiated in 1981. The ACP operates under the authority of 7 MRSA §151, which usually is referred to as the “Right-to-Farm” Law. This program now operates under the Department of Agriculture, Conservation and Forestry’s “Chapter 10 Rules for the Agricultural Compliance Program.” Which outlines the procedures utilized for investigating complaints against farms and farming operations. The purpose of this brochure is to describe how this program operates, and to outline the procedures employed for resolving agriculture-related complaints.

What is the Maine Agricultural Compliance Program?



A leaking silage storage area that requires remediation

The Agricultural Compliance Program (ACP) of the Maine Department of Agriculture, Conservation and Forestry (Department) was developed to investigate and resolve complaints from the public concerning farms and farm operations that involve threats to human or animal health and safety, and to the environment. An

important aspect of the program is that it helps a farmer to develop or remain in compliance with best management practices (BMPs), which are the basis for a farmer’s “Right-to-Farm” protection.



The same silage storage area after improvements

Why is the Agricultural Compliance Program beneficial to farmers and to the public?

Complaints between farmers, or between farmers and their neighbors or others, related to the concerns listed above, are resolved in a meaningful and timely way by the adoption or modification of farm best management practices. Resolution of these conflicts also helps to keep farms and other agricultural businesses operating and retains land in agricultural production.

What types of complaints are investigated by the Department?

Many types of complaints may arise from a farm operation, and include concerns about odors, manure handling, animal carcasses, dust, insects, cull potatoes, impairments to water quality, or any other similarly-related situation that may develop on a farm.

Who investigates complaints concerning farms and farm operations?

The Department employs two Agricultural Compliance Officers (ACO) who cover the entire State of Maine. In some situations, an individual with appropriate training and experience to investigate agriculture-related problems may be designated to assist the ACO. An ACO also may seek assistance from experts on any issue relevant to the complaint.

How is a complaint investigation initiated and how does it proceed?

After a complaint is received by the Department, an ACO will contact the farmer and provide him or her with the name of the complainant, if requested, the nature of the complaint, and sufficient information to allow the farmer to identify and address the alleged problem(s). The ACO usually will notify the farmer in advance of his arrival on the farm. The ACO then will conduct an on-site investigation and determine whether an agricultural problem actually exists. During the investigation, the ACO



Composting animal mortalities - a proven method for dealing with an inevitable event

may interview the complainant, farm workers, neighbors, or anyone else who may be able to provide information pertinent to the investigation.

After the initial investigation, the ACO will make written findings, which include whether the farm is using and maintaining appropriate BMPs, is causing or may cause any undue environmental impact, or is causing any undue adverse impact on neighboring residents and landowners. If a determination is made that the complaint is justified, the ACO will provide guidance to the farmer for rectifying the problem, which likely will include recommendations for BMP development and implementation.

What factors does the ACO consider when making recommendations for remedying agriculture-related problems?

Since each situation is unique, the ACO must carefully evaluate all relevant facts and conditions concerning the case, and achieves this by utilizing:

- The findings of the investigation
- All reasonably available relevant information
- Best professional judgment, which is based on the ACO's professional training and experience, and on the best information reasonably available to the officer at the time of the investigation



Well-managed crop land

What information is included in the ACO's recommendations to the farmer?

Since the development and implementation of appropriate best management practices often is the focus for the resolution of agriculturally-based complaints, the ACO works very closely with the farmer, focusing on the following factors:

- The BMPs that must be implemented to solve the problem and

- the steps the farmer must take to implement those measures
- Any requirements or restrictions as to how implementation must be achieved
- The date by which implementation must be finalized
- The reasons for the recommended BMPs and the changes the BMPs are expected to effect

Since farm operations are very diverse and operate under different site-specific conditions, many factors must be considered when BMPs are being developed. These factors may include an evaluation of the natural resources present, the types of crops or animals raised or housed on the farm, the proximity of the farm to neighbors, and any other existing or potential problems on the site that are part of the farm.

The Agricultural Compliance Program focuses on the development and implementation of BMPs. What are "best management practices" and why are they important?

Best management practices are those agricultural practices that are determined by the Commissioner of Agriculture, Conservation and Forestry to be a preferred method or practice based on best reasonably available and economically feasible methods and technologies that are technically and environmentally sound. They are practices that are best suited to preventing, reducing or correcting agriculture-related problems.

General BMPs and Site-Specific BMPs

Many BMPs have been implemented on farms of all sizes and types across the United States. Collections of BMPs in reference manuals are called "general" BMPs. These collections of general BMPs constitute a menu from which one or more techniques or practices may be selected to address an agriculture-related problem in the most appropriate manner for the site and issue. Rarely will the use of a single BMP be sufficient to address a problem. More often, several BMPs individually selected to fit the unique characteristics of each site and farming operation will be required; these are called "site-specific" BMPs.

Who develops Best Management Practices?

If a determination is made that an agriculture-related problem exists, the ACO or a qualified designee may recommend or develop BMPs to address the problem. The farmer also may recommend or develop appropriate BMPs with concurrence of the ACO. The BMPs must be site-specific and all relevant factors of the specific situation must be considered.

Where can I find a listing and description of BMPs?

Many BMPs have been developed over the years. The Department has published a "Manual of Best Management Practices for Maine Agriculture" that, although not a complete listing of every available BMP, contains general BMPs that may be pertinent for problem solving in many situations. The Manual may be obtained from the Department or at www.maine.gov/dacf/php/nutrient_management/.

What about follow-up inspections at the farm?

The ACO may return to the farm to determine if BMPs have been implemented, and to determine if any further action related to the problem previously investigated will be required.

If the farmer does not agree with the ACO's recommendations, how is this resolved?

Most ACOs have extensive, practical experience in agricultural operations and, therefore, understand the ramifications their recommendations may have on the farm operation. If requested, the parties may meet informally with the program director to resolve differences. However, if an impasse occurs, the farmer may appeal the ACO's decision to the Nutrient Management Review Board. The Board then may act on the appeal, and affirm, amend, or reverse a decision made by the ACO. Alternatively, the Board may hold information-gathering meetings to facilitate resolution of a complaint if the farmer and the Commissioner of Agriculture agree to request facilitation assistance from the Board.



The following are questions often asked about the Agricultural Compliance Program:

I've heard a lot about "Right-to-Farm" protection. How does this relate to me as a farmer and to the Agricultural Compliance Program?

The Right-to-Farm Law (7 MRSA §151 et seq.) applies to farms, farm operations, and agricultural composting operations. Essentially, the law specifies that these operations may not be considered a "nuisance" under law if the operation is in compliance with applicable state and federal laws, rules, regulations, and conforms to best management practices.



Leachate from silage



Good silage storage management with no runoff

How does the Right-to-Farm Law relate to the enactment of municipal ordinances that would prohibit or restrict my farming activities?

If any proposed ordinance impacts a farm operation, the municipality must submit a copy of that ordinance to the Department at least 90 days prior to the meeting of the legislative body or public hearing at which adoption of the ordinance will be considered. The Department will review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. However, this provision does not affect municipal authority to enact ordinances.

From a practical standpoint, what does it mean to have Right-to-Farm Protection?

If the ACO determines upon investigation of a complaint against a farm that the farm is operating in conformance with BMPs, but the complainant is unsatisfied with the outcome and initiates a legal



A manure storage area with excessive runoff

proceeding against the farm, the Department will testify on the farmer's behalf. The Department cannot provide legal counsel or pay any fees for legal services contracted by the farmer.

If I own a small farm that may not even require a nutrient management plan, yet a complaint is filed against my farming operation, will an ACO conduct an investigation?

The Agricultural Compliance Program focuses on resolving issues on commercial farms. As defined by Maine statutes, a "farm" is the land, buildings and machinery used in the commercial production of farm products. "Commercial production" is production by a farm of one or more farm products or services that are sold, bartered or otherwise exchanged for compensation and generates a cash or in-kind equivalent annual income of at least \$2000. Although many small farms in Maine may not meet these criteria, the Department always strives to assist these farms to the extent possible. However, Right-to-Farm protection may not apply in such situations. Complaints regarding improper manure handling always will be investigated.

Will an ACO be inspecting my farm even if no one has filed a complaint against me?

For the most part, the Agricultural Compliance Program is complaint driven. An exception occurs if the ACO becomes aware of a potential adverse water quality impact from animal waste. In this situation, the ACO has authority to initiate an investigation without having received a

complaint. Also, if a farmer has applied for a Livestock Operations Permit, an ACO or other Department staff will visit the farm and conduct an inspection at a mutually agreed-upon time.

I've farmed in my current location for many years and have always been respectful of my neighbors; yet, I still receive complaints from some of these or other folks, mostly because they don't understand farming or because they just don't want me here. What recourse do I have?

The Agricultural Compliance Program ACO will diligently investigate all complaints and determine whether a legitimate complaint exists. The Right-to-Farm Law also has a "good faith" provision that has implications for individuals who bring private actions against a farmer if it is determined that the action was not brought in good faith and was frivolous or intended only for harassment.

A manure storage structure too full with runoff



A modern manure storage structure with adequate capacity and no leaks

The success of the Maine Agricultural Compliance Program has been the result of an effective working relationship between farmers, the Department of Agriculture, Conservation and Forestry, and other state and federal agencies. In an era when most citizens have become increasingly disassociated with farming operations, conflicts often arise between the public and farmers who must utilize available land and water resources. The Agricultural Compliance Program serves as an effective intermediary between farmers and others for resolving conflicts in a timely and meaningful manner.



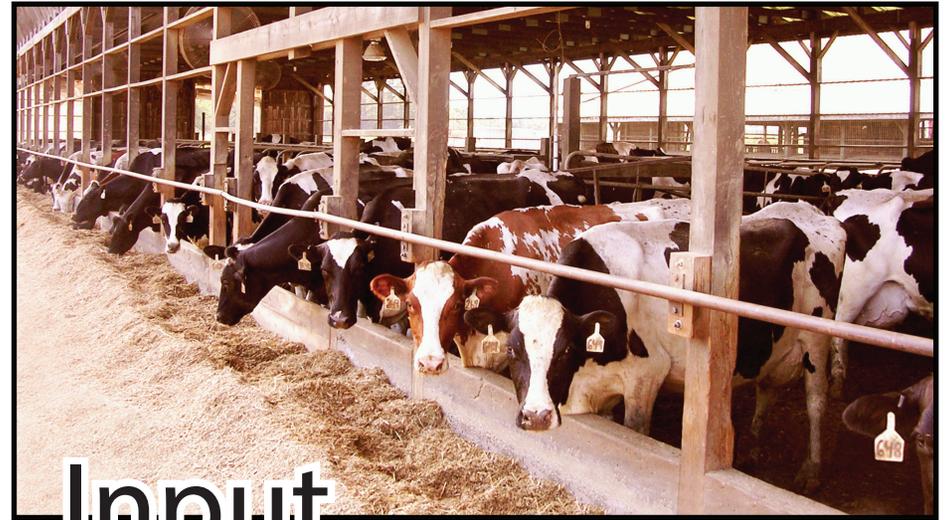
Crops and fields with minimal erosion

For more information, contact the Nutrient Management Program Manager at 207-287-7608 or e-mail: mark.hedrich@maine.gov.

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always results in...



Our task is to manage it
Properly!!!