



North Carolina Technical Note—WQ-07-01

Date: February 6, 2007

Managing Inactive Lagoons

Background: “Inactive” lagoons are those waste treatment lagoons that are no longer receiving volumes of animal waste, but are still listed by the NC Division of Water Quality as structures that have been registered (as required by past NC law), but have not been closed to meet NRCS standards—and thus removed from the DWQ list of inactive lagoons. Questions have been raised as to what is both necessary and required in order for management of inactive lagoons to comply with North Carolina law. The following guidance is given to Field Offices in regard to maintenance of inactive lagoons that are registered with DWQ. Any questions regarding specific regulatory or legal aspects of management of inactive lagoons or interpretation of NC law regarding animal waste and/or waste treatment lagoons should be directed to DWQ.

Question: (1) What are the maintenance requirements for an inactive lagoon? Is it still subject to the "zero discharge" mandate as long as it remains on the inactive list?

Response: It's "zero discharge" until the structure is properly decommissioned (closed to meet the NRCS Closure of Waste Impoundment standard, practice code 360 AND the proper form subsequently submitted to DWQ).

Question: (2) Is an "inactive" lagoon still subject to inspection by DWQ and/or DSWC? If so, under what circumstances would an inspection take place?

Response: Once permitted (NPDES or State General Permit), a farm must maintain its permit AND the waste structures until they are properly decommissioned, AND these farms are subject to routine compliance inspections by DWQ. For inactive farms that were deemed permitted (never received NPDES and State General Permit) - generally are not subject to routine compliance inspections by DWQ unless there is a complaint or some indication of a water quality problem. Division of Soil & Water Conservation will not perform routine operation reviews on inactive permitted or deemed permitted facilities.

Question: (3) If a producer with an registered inactive lagoon was having a problem managing surface water on his farm and wanted to outlet it into the inactive lagoon, is this legal? If legal, could the producer do this and apply lagoon wastewater onto farm cropland or pastureland?

Response: There are several of these cases, particularly with inactive dairies, but anytime they can route the surface water away from the inactive lagoon the better (because once the surface water hits the lagoon, it is considered wastewater subject to non-discharge requirements). If this method of surface water management was employed and then applied as wastewater, any cropland or pastureland applied on would have to be in a waste utilization plan.

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Question: (4) What recordkeeping is required for pumping and land applying from a lagoon that is on the "inactive" list? Is a waste utilization plan required?

Response: Inactive permitted farms must meet permit recordkeeping requirements. Inactive, deemed permitted farms are in a gray area and there is currently no clear interpretation from DWQ. The current interpretation from the DSWC follows—but the ultimate regulatory responsibility lies with DWQ:

* Scenario 1: Inactive/below threshold and deemed permitted status (not NPDES or State General Permit) – lagoon/facility not subject to rainfall, lagoon level, Operator in Charge, 60 day \pm waste analysis requirement, sludge, calibration and other Permit requirements (these requirements came after the 2H.217 non-discharge rule was implemented). Operation must not discharge, must have a waste utilization plan, and must keep some type of land application records. Not subject to routine operation reviews and compliance inspections. Inactive operations exist in DWQ/DSWC database only.

* Scenario 2: Inactive/below threshold and permitted (State General or NPDES) - subject to all Permit recordkeeping requirements; permanently operating below threshold is not subject to routine operation review but is subject to routine compliance inspection. Operations must always operate under Permit conditions until waste structures are properly closed (according to NRCS standard 360) and paperwork submitted to DWQ. DWQ may allow an individual permit for "below threshold" or "inactive" farms currently under NPDES/state general permits relaxing some of the record keeping requirements—this is completely at the discretion of DWQ.