



# **FACT SHEET**

For

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**Draft New York State Pollutant Discharge Elimination System General Permit**

For

**CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)**  
Permit No. GP-0-09-001

Issued Pursuant to Article 17, Titles 7, 8 and Article 70  
of the Environmental Conservation Law

**New York State Department of Environmental Conservation**  
**Draft New York State Pollutant Discharge Elimination System (“SPDES”) General Permit**  
**for**  
**Concentrated Animal Feeding Operations (CAFOs) (GP-0-09-001)**

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**Introduction**

The New York State Department of Environmental Conservation (“the Department”) is issuing a draft New York SPDES General Permit (“the State General Permit”) for Concentrated Animal Feeding Operations (“CAFOs”) (GP-0-09-001). This draft State General Permit, along with a draft federal Clean Water Act SPDES General Permit, will replace the SPDES General Permit for Concentrated Animal Feeding Operations (GP-04-02) which expires on June 30, 2009. This draft State General Permit has been revised to increase and enhance the clarity of the Department’s expectations of permittees while continuing to maintain terms and conditions equally protective of the environment.

The draft State General Permit for CAFOs prescribes a five (5) year permit term that covers operations fitting the definition of a “CAFO facility,” as per the New York Environmental Conservation Law (“ECL”) §17-0105 (16), Title 6 of the Codes, Rules and Regulations of the State of New York (“6 NYCRR”), Part 750-1.2(a) and Appendix A.J. of the State General Permit. These legal references, in addition to ECL §17-0701(1)(a) outline how a CAFO constitutes a point source and based upon the creation of that point source; the owner or operator of a CAFO must obtain coverage under this State General Permit prior to operating the CAFO facility.

Specifically, ECL §17-0701(1)(a) provides (in relevant part) that, “it shall be unlawful for any person, until a written SPDES permit therefore has been granted by the Commissioner, or by his designated representative, and unless such permit remains in full force and effect, to: (a) make or cause to make or use any outlet or point source for the discharge of sewage, industrial waste, or other wastes or the effluent therefrom into the waters of this state....” Sewage is defined in ECL §17-0105(4) to mean “water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present.”

The draft State General Permit does not regulate the discharges of pollutants from a CAFO facility per se, but rather requires all medium and large CAFOs who do not discharge or propose to discharge to seek State permit coverage, as New York state law governs the creation of a point source.

CAFO facilities that discharge or propose to discharge are not eligible for coverage under

this draft State General Permit. These facilities that have designed, constructed, operated and maintained Best Management Practices (“BMPs”) that discharge or propose to discharge must apply for coverage under the federal Clean Water Act SPDES General Permit (GP-0-09-002).

This draft State General Permit is issued pursuant to ECL Article 17, Titles 7,8 and ECL Article 70. An *owner or operator* may apply for eligibility to obtain coverage under this State General Permit by submitting a Notice of Intent (“NOI”) and either a *Comprehensive Nutrient Management Plan Certification* (“CNMP Certification,” formerly Appendix B in GP-04-02) for a medium CAFO or an *Annual Nutrient Management Plan* submittal (“Annual NMP”) for a large CAFO, as applicable, to the Department. Copies of this State General Permit and the NOI for New York are available by calling (518) 402-8111 or at any Department of Environmental Conservation (“the Department”) regional office (see Appendix C of the Permit). They are also available on the Department’s website at <http://www.dec.ny.gov>.

### **Permit Coverage**

Eligible existing facilities must apply for coverage under this State General Permit within six (6) months of the date of permit issuance. New facilities must apply for coverage prior to commencing operation as a CAFO facility.

Medium CAFOs newly authorized under this State General Permit must have all non-structural practices identified in the CNMP fully implemented prior to obtaining permit coverage. Large CAFOs newly authorized under this general permit will need to have a fully implemented CNMP prior to commencing operation. A fully implemented CNMP includes having all BMPs implemented that are required in the site-specific CNMP. CAFO facilities not meeting these eligibility requirements cannot obtain coverage under this State General Permit and must apply for or maintain coverage under the federal Clean Water Act SPDES General Permit.

### **Obtaining Coverage Under This General Permit**

Existing facilities must submit a complete NOI and either a CNMP Certification form for medium CAFOs or an Annual NMP submittal for large CAFOs within six (6) months of the date of issuance of GP-0-09-001. Once the items are submitted and the Department determines that the CAFO meets eligibility requirements articulated in Part I of the permit, the facility will then be authorized under this State General Permit (GP-0-09-001).

New facilities and facilities directed by the Department to obtain coverage under GP-0-09-001 must submit a complete NOI form and either a CNMP Certification form for medium CAFOs or an Annual NMP submittal for large CAFOs at least 30 days prior to commencing operation.

## **Additions to this General Permit**

1. Permit Coverage & Eligibility:
  - A. Any CAFO that discharges or proposes to discharge is not eligible for coverage under this permit. An ineligible CAFO would need to seek either federal Clean Water Act SPDES General Permit or individual permit coverage.
  - B. Any CAFO meeting the minimum animal requirements for a medium or large CAFO in Appendix A.J. must obtain coverage under GP-0-09-001, unless they are excluded from obtaining coverage as outlined in Part 1 (C) of the permit.
  - C. A CAFO covered under GP-0-09-001 will not need to seek coverage under the General Permit for Stormwater Discharges from Construction Activity for construction activities at the site, however, the owners or operators of these facilities are still required to comply with the provisions of the SPDES General Permit for Stormwater Discharges from Construction Activity, including submitting a Notice of Intent to the Department prior to soil disturbance, as applicable.
  
2. Document submittals:
  - A. All CAFOs must submit an Annual Compliance Report, formerly known as Appendix D in GP-04-02, by March 31<sup>st</sup> of each year for the previous year's activities.
  - B. Large CAFOs must amend the CNMP yearly and submit an Annual NMP electronically (in .PDF format) by March 31<sup>st</sup> each year for the previous year's activities.
  - C. These forms will be accessible to the public via Freedom of Information Law ("FOIL") request procedures. The public may access information retained by the Department, as a government agency, by sending a written request to the attention of "Records Access Officer," 625 Broadway, 14<sup>th</sup> Floor, Albany, New York, 12233-1500 or via email at [foil@dec.ny.gov](mailto:foil@dec.ny.gov). The Department's website provides the public with a link to request access to documents through the FOIL process.
  
3. Implementation Deadlines:

Medium CAFOs have until June 30, 2011 to have all NRCS practices fully

operational unless:

1. an extension is applied for and approved by the Department by June 30, 2011, OR
  2. a Certified AEM Planner deems the practice to be of lower environmental risk as defined in the Agricultural Environmental Management risk evaluation protocols.
4. Manure Applicator Training:
- A. Two individuals from each Large CAFO must attend manure applicator training every other year within the permit term.
  - B. Large CAFO facilities have two (2) years from the date of permit authorization to attend this training.
5. Major Changes Defined:
- A. If a CAFO increases the number of animals by 20% over specified number in the CNMP, a CAFO must amend the CNMP to reflect this change. Prior to implementing this change, a medium CAFO must submit an amended CNMP Certification form; or a large CAFO must submit an amended Annual NMP.
  - B. If a CAFO plans to construct a new or expanded liquid or semisolid waste storage facility greater than one million gallons; a medium CAFO must submit an amended CNMP Certification form; or a large CAFO must submit an amended Annual NMP prior to implementation of the change.
6. Farmstead Practices:
- A. Changes to export requirements are meant to meet the intent of the federal 2008 CAFO rule. Export encourages better distribution of nutrients and lessens the burden on lands and watersheds closest to the CAFO facility. Most exports are done appropriately, these changes provide clarity to the producer and recipient of the waste exports.
  - B. Newly constructed feed and waste storage structures may not be built within 100 feet of a New York State classified stream regardless of design.

### **Unchanged Permit Conditions**

1. This General Permit continues to expressly incorporate the facility-specific CNMP, as written by a Certified AEM planner, into this general permit. Therefore, compliance with the CNMP is a requirement for full compliance with this General Permit.
2. This General Permit continues to require compliance with NRCS standards. This requirement includes all NRCS standard compliant best management practices necessary to address facility-specific resource concerns, as well as universal requirements for land applications to be made in accordance with NRCS NY590. In this manner, this General Permit strictly adheres to the land grant university requirements including: the Phosphorus Runoff Index, the Nitrogen Leaching Index and RUSLE 2 for erosion control. All CAFOs, through their Certified AEM planner, must use these technical tools to determine appropriate application rates and timing on a field-by-field basis.
3. The minimum threshold number of animals to be considered a medium or large CAFO remains the same as in GP-04-02.
4. Transfer of manure, litter and process wastewater in excess of 50 tons per year to any one recipient continues to trigger certain reporting and record retention requirements.
5. The deadline for large CAFOs to fully implement all practices in their CNMP was December 31, 2006. The deadline for medium CAFOs to implement all non-structural practices in their CNMP was October 1, 2007. This general permit does not extend these deadlines.