



NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) GENERAL PERMIT

FOR

**CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)**

General Permit No. GP-0-09-001

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

Effective Date: **[Effective Date of Permit]** Expiration Date: **[Expiration Date of Permit]**

William R. Adriance  
Chief Permit Administrator

Address: NYS DEC  
Div. Environmental Permits  
625 Broadway, 4<sup>th</sup> Floor  
Albany, N.Y. 12233-1750

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

## PREFACE

This general permit is issued pursuant to Article 17, Titles 7,8 and Article 70 of the ECL. An *owner or operator* may apply for eligibility to obtain coverage under this general permit by submitting a Notice of Intent (“NOI”) and either a *Comprehensive Nutrient Management Plan Certification* (“CNMP Certification”) or *Annual Nutrient Management Plan* (“Annual NMP”) to the Department. Copies of this 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). They are also available on the Department’s website at:

<http://www.dec.ny.gov/>

An *owner or operator* of a *CAFO* that is deemed eligible for coverage under this general permit must obtain coverage prior to operation of the *CAFO* facility. Operations that fit the definition of a “CAFO facility”, as defined in Article 17-0105 (16), 6 NYCRR 750-1.2(a) and Appendix A (K) of this permit, constitute construction of a point source and therefore, pursuant to Articles 17-0701 (1)(a) and Article 17-0105 (16) of the ECL, the owner or operator must have coverage under a SPDES permit prior to operation of a CAFO facility.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
SPDES NON-DISCHARGER GENERAL PERMIT FOR CAFOs**

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**Part I. PERMIT COVERAGE AND LIMITATIONS**

**A. Facilities Eligible To Be Covered By This Permit:**

**Existing Medium CAFOs.** Unless excluded from coverage in accordance with Section IC or Section ID of this permit, owners or operators of existing Medium CAFOs that have fully implemented all of the non-structural practices identified in the CNMP are eligible for coverage under this permit, unless the certified AEM planner and the owner and operator determine that a structural practice that is not yet scheduled to be installed is required in order for the non-structural practice to be fully operational.

**Existing Large CAFOs.** Unless excluded from coverage in accordance with Section IC or Section ID of this permit, owners or operators of existing Large CAFOs that have fully implemented all practices identified in the CNMP are eligible for coverage under this permit.

**New Medium CAFOs.** Unless excluded from coverage in accordance with Section IC or Section ID of this permit, owners or operators of New Medium CAFOs are eligible for coverage under this permit.

**New Large CAFOs.** Unless excluded from coverage in accordance with Section IC or Section ID of this permit, owners or operators of New Large CAFOs are eligible for coverage under this permit.

**B. Maintaining Water Quality.** It shall be a violation of this general permit and the Environmental Conservation Law (“ECL”) for any discharge to either cause or contribute to a violation of water quality standards as contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“6 NYCRR”).

**Releases From Properly Operated and Maintained BMPs.** Process waste water pollutants in the overflow may be discharged to surface waters of the State when extreme precipitation, emergencies or natural disasters cause an overflow beyond the permittees reasonable control from a structure that is properly designed, constructed, operated and maintained, in accordance with all applicable NRCS Conservation Practice Standards; however, these discharges may not cause or contribute to a violation of water quality standards.

Releases of pollutants from a wastewater treatment strip designed, installed, operated and maintained in accordance with NRCS NY635 is not considered an overflow or a discharge; however, these systems may not cause or contribute to a water quality standards violation, per ECL 17-0501 and 6 NYCRR 700-705.

If an existing BMP is causing or contributing to any contravention of any State water quality standard, immediate abatement action must be taken by the permittee under the direction of a Certified AEM Planner.

**C. Exclusions From Coverage Under This Permit.**

- a.** The following medium CAFOs are **not** eligible for coverage under this permit:
- i.** Medium CAFOs that the Department has determined, prior to the date of coverage, to be causing or contributing to a water quality standards violation;
  - ii.** Medium CAFOs which have been notified by the Department to file for an individual SPDES permit as discussed in Section ID of this General Permit;
  - iii.** Medium CAFOs which have been notified by the Department to file for a CWA CAFO SPDES general permit.
  - iv.** Medium CAFOs that discharge all of their process wastewater to a treatment system that discharges in accordance with a SPDES permit (example: publicly owned sanitary sewer system).
- b.** The following large CAFOs are **not** eligible for coverage under this permit:
- i.** Large CAFOs that the Department has determined, prior to the date of coverage, to be causing or contributing to a water quality standards violation;
  - ii.** Large CAFOs which have been notified by the Department to file for an individual SPDES permit as discussed in Section ID of this General Permit;
  - iii.** Large CAFOs which have been notified by the Department to file for a CWA CAFO SPDES general permit.
  - iv.** Large CAFOs that discharge all of their process wastewater to a treatment system that discharges in accordance with a SPDES permit (example: publicly owned sanitary sewer system).
  - v.** Large CAFOs that discharge or propose to discharge in accordance with definitions provided in Appendix A of this permit.

**D. Requiring An Individual SPDES Permit**

- a.** The Department, in its sole discretion, may require any owner or operator authorized by this permit to apply for and obtain an individual SPDES permit as provided in 6NYCRR Part 750 et seq. The Department will notify the owner or operator in writing that an application for an individual permit is required. If an owner or operator fails to submit an individual SPDES permit application as required by the Department, then coverage under this general permit is automatically terminated at the end of the day specified for submittal of the individual permit application.

- b. When an individual SPDES permit is issued to an owner or operator otherwise subject to this permit, coverage under this general permit is automatically terminated on the effective date of the individual permit.

**E. Construction Activity at CAFO Facilities**

This permit authorizes stormwater discharges to surface waters of the State from construction activities subject to the requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity.

An owner or operator of a facility with coverage under this CAFO general permit is not required to obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity for construction activities performed 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. Discharges from the construction activity will be authorized under the CAFO general permit, unless otherwise notified by the Department (see Appendix B).

**Part II. OBTAINING PERMIT COVERAGE**

**A. Duty to File A Notice of Intent**

The Department shall require that every applicant for a permit to create a point source into waters of the state shall file such information at such times in such form as the Department may reasonably require to execute the provisions of ECL Article 17, as per ECL 17-0701.

Owners or operators of existing medium CAFOs eligible to be covered by this permit shall submit a Notice of Intent and CNMP Certification to the Department within 6 months from the date of permit issuance. Notifications for a new or expanded facility must be made at least 30 days prior to commencing operation of the new facility or the facility expansion, respectively. The *Notice of Intent* (NOI) form (or photocopy thereof) and CNMP Certification shall be signed by the owner and certified AEM planner, and a copy of the NOI, CNMP Certification and a copy of this permit shall be retained on site in accordance with Section III E of this permit.

Owners or operators of existing large CAFOs eligible to be covered by this permit shall submit a Notice of Intent and Annual Nutrient Management Plan (Annual NMP) to the Department in an acceptable format within 6 months from the date of permit issuance. Notifications for a new or expanded facility must be made at least 30 days prior to commencing operation of the new facility or the facility expansion, respectively. The *Notice of Intent* (NOI) form (or photocopy thereof) and Annual NMP shall be signed by the owner and certified AEM planner, and a copy of the NOI, Annual NMP and a copy of this permit shall be retained on site in accordance with Section III E of this permit.

**B. Duty to File A Notice of Termination**

If the facility no longer meets the definition of a medium or large CAFO pursuant to Appendix A of this general permit, the owner or operator may terminate coverage under this permit by submitting a complete Notice of Termination form to the Department. Proper management and/or removal of all residual materials is required in accordance with 6 NYCRR 750-2.11 prior to submittal of the Notice of Termination including, but not limited to, the inspection and closure requirements for waste storage facilities.

30 days prior to a facility expansion beyond the animal threshold that defines a medium CAFO, the facility must meet the eligibility criteria for this general permit as a large CAFO as described in Appendix A and submit a revised NOI and Annual NMP to the Department. A facility not meeting these requirements must immediately submit a Notice of Termination and apply for coverage under the CWA CAFO general permit as a Large CAFO.

If the facility exceeds the animal threshold that defines a medium CAFO and fails to apply for coverage under the CAFO general permit as a large CAFO 30 days prior to this expansion, this permit is invalid and coverage is automatically terminated.

**C. Duty to File A Notice of Transfer**

Coverage under this permit is transferable to a new owner or operator. The current permittee, the new owner or operator and a certified AEM planner must sign and submit a complete *Notice of Transfer form*. When the ownership or operation is transferred, if the nature of the operation is changed, or the facility is expanded beyond the contingencies specified in the CNMP, the new permittee shall amend the CNMP in accordance with Section IIID of this permit and submit a revised CNMP Certification.

Submit **Notice of Intent, Notice of Termination, or Notice of Transfer** forms to:

**New York State Department of Environmental Conservation  
Division of Water  
Bureau of Water Permits, 4<sup>th</sup> Floor  
625 Broadway  
Albany, New York 12233 - 3505**

**Part III. COMPREHENSIVE NUTRIENT MANAGEMENT PLANS**

**A. Comprehensive Nutrient Management Plan (CNMP)** shall be developed and maintained for each CAFO facility covered by this permit. The CNMP shall be prepared in accordance with good agricultural practices and shall include measures necessary to prevent pollutants in runoff and overflows from all areas of the facility as required by this permit. The plan shall describe and ensure the implementation of practices which are to be used to assure compliance with the limitations and conditions of this permit.

**a. Contact Person.** Within the CNMP, the permittee shall identify a specific individual(s) at the facility who is responsible for the implementation, maintenance, and revision of the

CNMP. The activities and responsibilities of the CNMP personnel shall address all aspects of the facility's CNMP.

- b. ***CNMP Content.*** All areas where manure, litter, process wastewater or fertilizers are produced, land applied or stored on or for use by the facility shall be addressed in the CNMP. Areas where crops are produced and exported to the CAFO for feed, bedding or other purposes that are not also used for manure, litter, process wastewater, or fertilizer applications by the facility do not need to be included in the CNMP.
- c. ***Compliance with NRCS Standards.*** Facilities identified in the CNMP shall be designed, constructed and operated in accordance with the “**NRCS Conservation Practice Standard No. NY312**”, **all applicable NRCS standards and based on available sound science.**

All CAFO owners and operators must include in the CNMP the timeframes for necessary upgrades to existing BMPs or systems including routine evaluations and maintenance separate from any upgrades necessary due to changes in NRCS standards as required below. During these system upgrades, the CNMP must prescribe a management system to provide equivalent protection of the environment.

Any variations in the implementation of the applicable NRCS standard are allowed provided it is documented and justified in the CNMP to be equally protective of water quality by the certified AEM planner or engineer. This documentation must be submitted with the Annual NMP and Annual Report.

i. For New or Updated BMPs:

- 1. Designs and implementation must be done in accordance with all applicable NRCS standards in place at the time this permit is issued.
- 2. BMP implementation shall be under the oversight of a Certified AEM Planner;
- 3. During the process of updating existing BMPs, the CNMP must prescribe a management system to provide equivalent protection of water quality.

ii. Existing BMPs built in accordance with a previous NRCS standard shall be evaluated by the facility, under the oversight of a Certified AEM planner. Based on this evaluation:

- 1. If the Certified AEM planner for the facility deems the existing BMP to be functioning as designed, to substantially meet the intent of the new NRCS standard and to adequately be protecting surface and groundwater quality, the facility shall document this consideration in the CNMP (including any differences) as well as any non-structural changes required in the new NRCS

standard, implement those non-structural changes within one-year of the permit issuance, and continue to monitor the existing BMP for conditions that require a modification; OR

2. If the Certified AEM planner for the facility deems the existing BMP not to meet the conditions described above, the facility shall implement all non-structural and structural changes necessary to meet the new NRCS standard as identified in the evaluation within two-years from the date of permit issuance.

**B. Certification of the CNMP** The CNMP must be developed or reviewed by a certified AEM Planner. The permittee *and* the certified AEM Planner shall certify in accordance with the CNMP Certification form that the CNMP has been prepared in accordance with "NRCS Conservation Practice Standard No. NY312." CNMP development and certification shall be complete within 6 months of Department receipt of a Notice of Intent for New Facilities.

**C. Implementation of CNMP Requirements.**

**a. For Medium CAFOs** The CNMP shall contain a prioritized schedule of implementation for practices to be fully operational as required for full compliance with this permit. Prioritization shall be in accordance with the established Agricultural Environmental Management risk evaluation protocols. The schedule shall assure consistent annual progress in completion of practices set forth within the CNMP.

- i. Existing Medium CAFOs shall have all *Non-Structural Practices* fully operational prior to submitting the NOI and CNMP Certification, unless the certified AEM planner and the owner and operator determine that a structural practice that is not yet scheduled to be installed is required in order for the non-structural practice to be fully operational.
- ii. New Medium CAFOs or AFOs expanded to Medium CAFOs shall have all Non-Structural Practices fully operational within 6 months of submitting the Notice of Intent, unless the certified AEM planner and the owner and operator determine that a structural practice that is not yet scheduled to be installed is required in order for the non-structural practice to be fully operational.
- iii. All Medium CAFOs shall have all *Structural Practices* necessary to eliminate discharges from the production areas to the waters of New York State fully operational prior to submitting the Notice of Intent, unless the certified AEM planner and owner and operator determine that a non-structural management practice can be immediately implemented to provide adequate protection of the environment until such time as the structural practice is implemented.
- iv. All Medium CAFOs shall have *all practices* fully operational by **June 30, 2011**. Exceptions to this permit requirement include:

1. In situations where the Certified AEM Planner and/or Professional Engineer licensed to practice in New York State, deems the situation to be of lower environmental risk as defined in the AEM risk evaluation protocols. These determinations must be documented in the CNMP and implementation made in accordance with a schedule such that *all practices* are fully operational by **June 30, 2014**; OR
2. If the Medium CAFO makes a request for an extension to the Department that includes sufficient justification for such a request and a date indicating when the facility will come into compliance. Any such extension request shall state and demonstrate that the facility has made substantial efforts for the previous two years and successfully implemented Best Management Practices on the facility in that time period **AND** one or more of the following:
  - a. A grant has been applied for and approved, and scheduling or proper permits have yet to be acquired and/or
  - b. financial conditions prohibit hiring of required vendors or contractors and/or
  - c. financial conditions prohibit completion of all required installations by 6/30/2011, but some are proceeding and will be completed by 6/30/2014.

Any extension request must be approved by DEC no later than June 30, 2011 and *all practices* must be fully operational by **June 30, 2014**.

- b. **For All Large CAFOs** All practices necessary for full compliance with this permit must be fully operational prior to permit coverage.

**D. Duty to Amend the CNMP.** All changes in the operation of the facility or implementation of the CNMP shall be recorded in the CNMP. The permittee shall amend the CNMP under the direction of a certified AEM planner in accordance with the following conditions:

- a. Annually. The CNMP must be updated annually to ensure continued compliance with NRCS NY312 and this general permit. This update should also prescribe any BMP enhancements being implemented by the facility beyond the requirements of this general permit.
- b. The permittee shall amend the CNMP, under the direction of a certified AEM planner, prior to any: change in design, construction, operation, or maintenance that has the potential to impact the discharge of pollutants from the operation to the waters of the State; expanding operations beyond the contingencies specified in the CNMP; or, if the CNMP plan proves to be ineffective in achieving the general objectives of preventing pollutants in discharges from the CAFO.

- c. The permittee shall amend the CNMP, under the direction of a certified AEM planner, prior to any changes that would cause the facility to discharge or propose to discharge as defined in Appendix A so as to maintain its eligibility for coverage under this permit.
- d. The CNMP shall include contingencies for possible expansion of the number of animals or changes that would limit the permittee's ability to comply with the requirements of this permit.
- e. The number of animals planned for under the existing CNMP shall be clearly identified and any changes that would exceed the design capabilities of the current operating system(s) for the facility shall be described in the CNMP. *Prior to* increasing the number of animals 20% above the plan number specified in the existing CNMP, the permittee must update its CNMP consistent with the permit requirements and update all system components identified as being in need of upgrading in accordance with current NRCS standards including, but not limited to, the addition of any necessary waste storage capacity, feed storage treatment or additional lands for waste applications.

This update is considered a major change and requires:

- 1. Medium CAFOs must send an amended CNMP Certification form to the Department;
  - 2. Large CAFOs must send an amended Annual NMP to the Department.
- f. Other major changes requiring notification sent to the Department include the construction of a new or expanded liquid or semisolid waste storage facility greater than one million gallons. Prior to implementation of this new waste storage facility, the permittee must update its CNMP consistent with the permit requirements. This update is considered a major change and requires:
    - 1. Medium CAFOs must send an amended CNMP Certification form to the Department;
    - 2. Large CAFOs must send an amended Annual NMP to the Department.
  - g. A revision to the CNMP conducted in accordance with all applicable NRCS standards to address facility operation changes prior to the implementation of the change in direct consultation with a certified AEM planner is not considered a major change with the exceptions as described above and should be brought to the attention of the Department through the annual information submittal as applicable.
  - h. The Department may provide written notice to the permittee that the plan does not meet one or more of the minimum requirements of the **"NRCS Conservation Practice Standard No. NY312."** After such notification, the permittee shall make changes to the CNMP within 90 days after such notification, unless otherwise provided by the Department.

## E. Compliance with the CNMP

- a. The permittee shall comply with all provisions of the CNMP.
- b. All CAFO owners and operators must maintain a copy of the site-specific certified CNMP onsite, and records documenting the implementation of the best management practices and procedures identified in the CNMP. CAFO owners and operators must also maintain in their records a copy of the current CAFO SPDES General Permit.

**Part IV. INSPECTION AND MAINTANENCE REQUIREMENTS**

- A. **Inspection and Entry.** The permittee shall allow the Commissioner of the Department, or his or her designee, or any duly authorized agent thereof, upon the presentation of credentials and other documents as may be required by law, to:
  - a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
  - b. Have access to and copy, at reasonable times of day, any records that must be kept under the conditions of this permit;
  - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
  - d. Sample or monitor at reasonable times of day, for the purpose of assuring permit compliance or as otherwise authorized by the Environmental Conservation Law, any substances or parameters at any location.
- B. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

**Part V. MONITORING, REPORTING AND RETENTION OF RECORDS**

- A. **Anticipated Non-Compliance.** The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Such advance notice shall be in accordance with 6 NYCRR 750-2.7(a).
- B. **Discharge Reporting.** If, for any reason, the permittee knows or has reason to believe there is a discharge of process wastewater or spill to the waters of the State that causes deposition, substantial visible contrast to waters of the State, or impacts to fish, or other violations of 6NYCRR Parts 700 to 705, the permittee shall:
  - a. **Twenty-four Hour Reporting** Notify the DEC Regional Office orally within 24 hours from the time that the permittee becomes aware of the discharge;
  - b. **Five-day Reporting** Submit a written *CAFO Incident Report* to both the DEC Regional and Central Offices within 5 days of the discharge.

- C. All Other Non-Compliance.** The permittee shall report all other instances of non-compliance with permit conditions not otherwise required to be reported under this permit in the submittal of the Annual Compliance Report.
- D. Penalties for Falsification of Reports or Monitoring Systems.** State Law provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, shall upon conviction, be punished by a fine of up to \$75,000 per day or by imprisonment for not more than 4 years per violation or by both as per ECL 71-1933(7).
- E. Retention of Records.** The permittee shall retain copies of all records and reports required by this permit for a period of at least 5 years from the date reported. This period may be extended by request of the Department at any time. These records must be made available to the Department, or his or her designee, for review upon request.
- F. Availability of Reports.** In addition to data determined to be confidential under the Freedom of Information Law, information submitted to the Department may be claimed as confidential by the submitter. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. In accordance with 6 NYCRR 750.1-22(a) and Public Officers Law § 95(1)(a), however, Notices of Intent (NOI), permits, and effluent data, including Annual NMPs and annual compliance reports shall not be considered confidential and any claims of confidentiality for this information will be denied.
- G. Duty to Provide Information.** The permittee shall furnish to the Department, within 25 business days as per 6 NYCRR Part 750-2.5(c)(4), any information or data which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records, reports, etc. required to be kept by this permit.
- H. Incomplete Information.** All reports and information submittals submitted to the Department shall contain complete information. Incomplete reports or information submittals will not be accepted, will be returned to the permittee and may result in a violation of this general permit.
- I. Other Information.** When the permittee becomes aware of a failure to submit any relevant facts or submittal of incorrect information in the Notice of Intent or in any other report to the Department, the permittee shall promptly submit to the Department the amended facts or information.
- J. Signatories and Certification.** All reports or information submitted to the Department shall be signed and certified as specified in this section. In addition, all reports or information shall be signed by the facility owner or operator where the authority to sign documents has been assigned or delegated to the operator.

- a. For facilities owned by a corporation: by a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation.
- b. For facilities owned by a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
- c. For facilities owned by a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
- d. All reports required by the permit and any other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if the authorization is made in writing by a person described above, and the authorization specifies either an individual or a position having responsibility for the overall operation.

e. Any person signing a document under this section shall make the following certification:

" I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**K. On-Site Rain Gauge.** The permittee shall install and maintain a standard rain gauge in the proximity of the confinement area. All precipitation events in excess of 0.3 inch shall be measured and recorded in the CNMP.

**L. Annual Nutrient Management Plan Submittal** The Large CAFO shall annually submit the facilities' **Annual Nutrient Management Plan** in electronic (PDF only) format to the Department by March 31<sup>st</sup> of each year. The minimum elements for this submission include the following as it applies to the expected operations for the facility for the upcoming year:

**a. Farmstead / Production Area Elements**

- i. Farmstead /Facility Plan Maps or
- ii. Farmstead Facility Plan Narratives

**b. Field Elements**

- i. Field Maps
- ii. Field Information

**c. Best Management Practice Implementation Schedule**

**d. Owner or operator signature and certified AEM planner signature**

- M. Annual Compliance Report.** The permittee shall submit an *Annual Compliance Report form* to the Department. The report shall be for the previous calendar year and must be submitted by March 31<sup>st</sup> of each year.
- N. Annual Manure Analyses.** All CAFOs must analyze each individual land-applied waste source at least once annually for nitrogen and phosphorus in accordance with applicable NRCS standards unless a more frequent sampling is deemed appropriate by the certified AEM planner.
- O. Additional Facility Inspection and Recordkeeping Requirements for Medium CAFOs.** In addition to compliance with the requirements of NY312 and the additional recordkeeping requirements in the individual facilities' CNMP, all Medium CAFOs must conduct and keep records of facility inspections as follows:
- a.** Records of weather conditions at time of application and for 24 hours prior to and following application. This must include actual precipitation in excess of 0.3 inches and forecasted conditions;
  - b.** Records of weekly inspections of the depth marker reading for manure and process wastewater in any open liquid storage structures;
  - c.** Records of handling and disposing of dead animals;
  - d.** Records of all manure, litter and process wastewater applications; and
  - e.** Records of inspections of manure storage and containment structures.

**Any deficiencies found as a result of these inspections must immediately be corrected.**

- P. Additional Inspection and Recordkeeping Requirements for Large CAFOs.** In addition to compliance with the requirements of NY312 and the additional recordkeeping requirements in the individual facilities' CNMP, all large CAFOs shall comply with the following:
- a.** Perform and record weekly inspections of all storm water diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;
  - b.** Perform and record daily inspections of water lines, including drinking water or cooling water lines;
  - c.** Install and perform weekly inspections of depth markers in all surface and liquid impoundments (e.g. lagoons, ponds, tanks) to ensure adequate volume exists to maintain the minimum freeboard necessary as per NRCS standards plus the capacity necessary to contain the the 25-year, 24-hour rainfall event;
  - d.** Correct and record any deficiencies found as a result of daily and weekly inspections immediately;
  - e.** Records of handling and disposing of dead animals;
  - f.** Records of the design of the manure and litter storage structures. Must include records of:
    - i.** Design estimate of volume of solids accumulation
    - ii.** Approximate number of day's worth of storage capacity
    - iii.** Design treatment volume
    - iv.** Total design volume

- v. Calculations used to determine total design volume for storage structures; and
- g. Records of overflows from the production areas, including the date and time and an estimate of the volume;
- h. Records of all manure, litter and process wastewater applications;
- i. Weather conditions at time of application and for 24 hours prior to and following application. This must include actual precipitation and daily forecasted conditions; and
- j. Date(s) of manure application equipment inspection and calibration.

**Part VI. GENERIC BEST MANAGEMENT PRACTICES**

- A. Prohibition on Unauthorized Substances.** All releases to retention facilities and transfer structures shall be composed entirely of process wastewaters from the proper operation and maintenance of a CAFO and the precipitation run-off from the production area. The disposal of any materials other than discharges associated with proper operation and maintenance of a CAFO, including sanitary waste, into the retention facilities and transfer structures are prohibited by this permit. The retention and disposal of incidental food processing wastewater is authorized only if it is specified in the Comprehensive Nutrient Management Plan and done in accordance with NYCRR Part 360-1.2.

The retention or storage and disposal or land application of incidental food processing wastewater and/or recognizable food processing waste as defined in 6NYCRR 360-1.2(b)70 is authorized only if it is specified in the CNMP and done in accordance with 6NYCRR Part 360-4.2(A)(2). Additions of all other non agriculturally generated waste to the CAFO process waste stream must be done in accordance with 6NYCRR Part 360-4.

- B. Proper Operation and Maintenance Requirements.** The facilities covered by this permit are required to document the attainment of the effluent limitations required in Section I and all applicable Generic Best Management Practices (BMPs) used to comply with the effluent limitations in this permit. Such documentation shall be included in the Comprehensive Nutrient Management Plan (CNMP) required by Section III of this permit.
- C. Waste Application Requirements.** Land application rates shall be in accordance with the CNMP and the NRCS NY590. In no case shall land application rates result in excessive ponding or any runoff during any given application event that causes or contributes to a violation of water quality standards. Applications may not be made on saturated soils or at a rate that meets or exceeds the saturation capacity of that field at that time. In addition, all waste applications must be made in accordance with the following requirements:
- a. Adverse Weather Emergency Applications.** Emergency applications of manure, litter and process wastewater during adverse weather conditions must be made under the considerations of the Cornell Guide, “Supplemental Manure Spreading Guidelines to Reduce Water Contamination Risk During Adverse Weather Conditions”. The CNMP must identify specific fields to be reserved for these emergency applications.

- b. Protection of Groundwater and Artificial Drainage Discharges.** Applications of manure, litter and process wastewater in areas with at-risk groundwater as defined in the 2004 Cornell recommendations “Manure and Groundwater: The Case for Protective Measures and Supporting Guidelines” or most recent version or in artificially drained fields must be done with caution and under the direction of a certified AEM planner.

In addition, all *Large CAFOs* must meet the following requirement:

- c. Manure Applicator Training.** A minimum of two (2) individuals from each permitted Large CAFO facility must attend a NYSDEC endorsed manure applicator training every other year. All applications of manure, litter and process wastewater made by the CAFO must be done under the direct supervision of an individual that has attended this training. Direct supervision includes but is not limited to determining daily nutrient application rates, timing, spreading methods, field selections and adherence to required application setbacks. This individual is responsible for training of facility staff regarding the applicable requirements. Each facility has two (2) years from the date of permit coverage to attend this training.
  
- D. Field Setback Requirements.** Unless the CAFO exercises one of the options provided for in (a.) or (b.) of this section, manure, litter, and process wastewater may not be applied closer than 100 feet from the top of the bank of any down-gradient: (1) surface waters of New York State as defined in Appendix A, including both perennial and intermittent streams, (2) to a New York State Regulatory Freshwater Wetland with a surface connection to the field, or (3) to an open tile line intake structure, sinkhole, wellhead, or other down-gradient direct conduits to surface or ground waters.
  - a. Vegetated buffer.** As a compliance alternative, the CAFO may substitute the 100 foot-setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.
  - b. Alternative practice.** As a compliance alternative, the CAFO may substitute the 100 foot-setback with a 15-foot wide setback when under the conservation practice of incorporation within 1 day of the application as documented in the CNMP.
  
- E. Other Best Management Practices.** The following Best Management Practices (BMPs) shall be used by all CAFO owners/operators: (*Note that facility-specific BMPs must also be specified in the CNMP*).
  - a.** Retention facilities and structures must be designed, constructed, and operated to prevent the discharge of all process wastewater, including leachate, and the contaminated runoff from a 25-year, 24-hour rainfall event for the location of the production area. Calculations may also include allowances for surface retention, infiltration, and other site-specific factors. Retention facilities and structures must be constructed, maintained and managed so as to retain all contaminated rainfall runoff from open lots and associated areas, process wastewater, and all other wastes which will enter or be stored in the retention facilities or structure(s).

- b.** Leachate collection and control facilities must be implemented, operated and maintained in accordance with all applicable NRCS standards to prevent overflow or discharge of the concentrated, low-flow leachate products. If a certified AEM planner deems leachate collection unnecessary, a detailed description of the monitoring strategy necessary for this determination must be included in the CNMP. This monitoring strategy must be site-specific and, at a minimum, include documented weekly inspections of the concrete pad to determine if leachate is leaving the pad.
- c.** Facilities shall not expand operations, either in size or numbers of animals, prior to amending or enlarging the waste-handling procedures and structures to accommodate any additional wastes that will be generated by the expanded operations, unless the existing facilities have been designed to accommodate such expansion.
- d.** Open lots and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, diversions or other such structures designed to carry peak flows expected at times when the 25-year, 24-hour rainfall event occurs.
- e.** New facilities and structures on existing facilities shall not be built in a surface water of the State, including wetlands. These structures must be built outside of the 100-year floodplain unless protected from inundation by the 100-year flood as documented by a Professional Engineer currently licensed to practice in New York State. In addition, any newly constructed waste storage facilities or feed storage structures may not be built within 100-feet of a NYS classified stream or protected waterbody as determined by Title 5 of Article 15 of the ECL or as seen on the NYS Environmental Resource Mapper at: <http://www.dec.ny.gov/animals/38801.html>.
- f.** Existing waste storage structures that have not been designed or installed under the direction of a Professional Engineer currently licensed to practice in New York State or NRCS employee with the appropriate job approval authority must be evaluated by a Professional Engineer currently licensed to practice in New York State in accordance with the “AEM Tool for the Evaluation of Undesigned Waste Storage Facilities” or most recent version (available at: [www.nys-soilandwater.org/aem/cnmp.html](http://www.nys-soilandwater.org/aem/cnmp.html)).
- g.** Animals confined in the animal feeding operation must be prevented from coming in contact with the surface waters of the State.
- h.** There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted facility. Retention facilities and structures, holding pens or waste/wastewater disposal sites shall not be located closer to public or private water wells than the distances specified by State regulations or health codes or State-issued permits.

- i. Solids, sludges, manure, or other pollutants, as defined in ECL 17-0105 (17), removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent pollutants from being discharged to waters of the State.
- j. The operator shall prevent the discharge of pesticides into waters of the State. All pesticide, herbicide and fungicide products used at the CAFO must be registered with New York State and applied in accordance with the label directions. Any use contrary to the legal label is a violation of Federal and State Pesticide Law. Certification of pesticide applicators may be required. (See <http://www.dec.ny.gov/permits/209.html>). All wastes from dipping vats, pest and parasite-control units, and other facilities used for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent pollutants from entering the waters of the State.
- k. Dead animals shall be properly disposed of within three (3) days unless otherwise provided for by the Department. Animals shall be disposed of in a manner to prevent contamination of waters of the State or creation of a public health hazard. Facilities shall refrain from disposal of animal mortalities in any liquid manure or process wastewater treatment systems. Composting of dead animals must be made in accordance with the 2002 Cornell Waste Management Institute recommendations “[Natural Rendering: Composting Livestock Mortality & Butcher Waste](http://compost.css.cornell.edu/naturalrenderingFS.pdf)” or most recent version. (available at <http://compost.css.cornell.edu/naturalrenderingFS.pdf>) or applicable NRCS standard.
- l. Collection, storage, and disposal of liquid and solid waste must be managed in accordance with NRCS standards.

**m. Transfer of Manure, Litter, and Process Wastewater to other persons.**

In cases where CAFO- generated manure, litter, process wastewater or other wastes is exported, sold or given away to any one recipient in amounts greater than 50 tons annually, the permittee must comply with the following conditions:

1. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation.
2. Record the name and address of the recipient.
3. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater.
4. These records shall be retained on-site, for a period of five years, and shall be submitted to the Department upon request.

Any applications not meeting the definition of export, as defined in Appendix A, must be made in accordance with the CNMP of the permit holder.

**Part VII. GENERAL PROVISIONS**

- A. Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and is grounds for: an enforcement action; loss of authorization to discharge under this general permit; and/or denial of a permit renewal application.
- B. Penalties for Violations of Permit Conditions.** State Law provides that any person who violates a permit condition implementing ECL Article 17, Title 8, is subject to a civil penalty not to exceed \$37,500 per day for each violation as per ECL Article 71-1929.
- C. Continuation of the Expired General Permit.** This general permit continues in full force and effect until a new general permit is issued as applicable under state law and regulation. Coverage for new facilities may be obtained under the expired general permit. After issuance of a new general permit, those with coverage under this CAFO SPDES General Permit will have six (6) months from the effective date of the new general permit to obtain coverage under the new permit. Unless otherwise notified by the Department in writing, the facility owner or operator must submit a new NOI and CNMP Certification in accordance with the terms of such new general permit.
- D. Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- E. Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a likelihood of adversely affecting human health or the environment.
- F. Property Rights.** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining the assent of any other jurisdiction as required by law for the discharge authorized.
- G. Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected.
- H. Department Orders or Civil Decrees/Judgment.** The issuance of this permit by the Department and the receipt thereof by the permittee does not supersede, revoke or rescind any existing order on consent or civil Decree/Judgment, or modification to any such documents or to

any order issued by the Commissioner or any of the terms, conditions or requirements contained in such order or modification thereof, unless expressly noted in said order.

- I. Permit Actions.** At the Department's sole discretion, this general SPDES permit may be modified, revoked or suspended at any time. The filing of a request by the permittee for a permit modification, reissuance or termination, or a notification of planned changes or anticipated non-compliance does not limit, diminish or stay compliance with any terms of this permit.
- J. Department Request for Information.** The permittee shall furnish to the Department, within 25 business days, any information which the Department may request to determine whether cause exists for modifying, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.
- K. Requirements for Other Permits.** This permit contains the legal requirements for compliance with the Clean Water Act and Article 17 of the Environmental Conservation Law. Nothing in this permit relieves the permittee from a requirement to obtain other permits required by state, local, or federal laws provided that these permits are at least as stringent as this general permit.

Shop drains are not authorized for discharge under this General Permit.

- L. Compliance With Water Quality Standards.** If operation of the facility pursuant to the permit causes or contributes to a condition in contravention of State water quality standards in violation of ECL Part 17-0501, or if the Department determines, on the basis of notice provided by the permittee and any related investigation, inspection or sampling, that a modification of the Comprehensive Nutrient Management Plan (CNMP) is necessary to prevent impairment of the best use of the waters or to assure maintenance of water quality standards or compliance with other provisions of ECL Article 17, the Department may require the permittee to modify their CNMP in accordance with Section III of this permit. The Department may also require abatement action to be taken by the permittee and may also prohibit the noticed act until an individual SPDES permit has been issued. The Department may also undertake any other compliance action.
- M. Existing Permits.** Unless otherwise notified by the Department, coverage under this permit does not suspend, revoke, or modify the provisions of any other permit issued by the Department.

## APPENDIX A – DEFINITIONS

- A. **25-Year, 24-Hour Rainfall Event** means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
- B. **Agricultural Environmental Management Program (AEM)** means an environmental planning process that includes site-specific, risk-based assessments, technical planning and implementation of Best Management Practices (BMPs) as set forth in Agriculture and Markets Law Article 11-A.
- C. **Agricultural Stormwater Discharge** means a discharge composed entirely of stormwater from a land area upon which manure and/or wastewater has been applied in accordance with proper agricultural practices, including land application of manure or wastewater in accordance with a site-specific nutrient management plan.
- D. **Agronomic Rates** mean the land application of animal wastes at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth.
- E. **Animal Feeding Operation (AFO)** means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and where the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.
- F. **Best Available Technology Economically Achievable (BAT)** means the Best Available Technology which is economically achievable as established under 301(b) and 402 of the Clean Water Act. The criteria and standards for imposing technology-based treatment requirements are listed in 40 CFR 125.3.
- G. **Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. Best Management Practices also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- H. **Common Ownership** means that two or more Animal Feeding Operations under common ownership are considered one operation if they, (1) adjoin each other, including facilities that are separated by a right-of-way or public road, (2) if they use a common manure and wastewater storage and handling system, or (3) if they use a common land application area. Operations sharing application systems that do not result in mixing of nutrients are not, by virtue of such sharing, under common ownership.

**I. *Comprehensive Nutrient Management Plan (CNMP)*** means a plan, in accordance with “*Natural Resources Conservation Service - Conservation Practice Standard - Waste Management System (Number) Code NY312,*” to properly manage liquid and solid waste, including runoff from concentrated areas. Implementation of a CNMP is implementation of *Best Available Technology Economically Achievable (BAT)*.

**J. *Concentrated Animal Feeding Operation (CAFO)*** means an Animal Feeding Operation (AFO) that is a point source as defined pursuant to ECL Section 17-0105(16) and is a CAFO. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals of an operation. CAFOs are defined as follows:

***Large Concentrated Animal Feeding Operation (Large CAFO)*** means an Animal Feeding Operation (AFO) that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- a. 700 Mature Dairy Cows, whether milked or dry
- b. 1,000 Veal Calves
- c. 1,000 Cattle, other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs)
- d. 2,500 Swine, each weighing 55 pounds or more
- e. 10,000 Swine, each weighing less than 55 pounds
- f. 500 Horses
- g. 10,000 Sheep or Lambs
- h. 55,000 Turkeys
- i. 30,000 Laying Hens or Broilers, if the AFO uses a liquid manure handling system
- j. 125,000 Chickens (other than laying hens), if the AFO uses other than a liquid manure handling system
- k. 82,000 Laying Hens, if the AFO uses other than a liquid manure handling system
- l. 30,000 Ducks, if the AFO uses other than a liquid manure handling system
- m. 5,000 Ducks, if the AFO uses a liquid manure handling system

***Medium Concentrated Animal Feeding Operation (Medium CAFO)*** means an Animal feeding Operation (AFO) that stables or confines the type and number of animals that fall within any of the following ranges:

- a. 200-699 Mature Dairy Cows, whether milked or dry
- b. 300-999 Veal Calves
- c. 300-999 Cattle, other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs)
- d. 750-2,499 Swine, each weighing 55 pounds or more
- e. 3,000-9,999 Swine each weighing less than 55 pounds
- f. 150-499 Horses
- g. 3,000-9,999 Sheep or Lambs

- h. 16,500-54,999 Turkeys
  - i. 9,000-29,999 Laying Hens or Broilers, if the AFO uses a liquid manure handling system
  - j. 37,500-124,999 Chickens (other than laying hens), if the AFO uses other than a liquid manure handling system
  - k. 25,000-81,999 Laying Hens, if the AFO uses other than liquid manure handling systems
  - l. 10,000-29,999 Ducks, if the AFO uses other than a liquid manure handling system
  - m. 1,500-4,999 Ducks, if the AFO uses a liquid manure handling system
- K. *Certified Agricultural Environmental Management (AEM) Planner*** means an individual certified by the American Society of Agronomy as a Certified Crop Advisor (CCA), that has completed the five module Natural Resources Conservation Services (NRCS) training process, attended the four day comprehensive nutrient management plan development training course, successfully completed a three plan performance-based CNMP plan review and been deemed qualified by the Commissioner of the New York State Department of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee and the Natural Resources Conservation Service State Conservationist, to develop and review Comprehensive Nutrient Management Plans (CNMPs) for Concentrated Animal Feeding Operations in New York State. The certified (AEM) planner must be listed in the New York State Certified AEM Planner Directory. This directory is designed to assist farm businesses with the selection of planners. The directory provides for a county-by-county listing showing where the planner is willing to provide services and their associated capacities related to the development of Comprehensive Nutrient Management Plans (CNMPs). In the back of the directory a complete listing of all certified individuals has been alphabetically organized. Consult the following web site: [www.nys-soilandwater.org/aem/cnmp.html](http://www.nys-soilandwater.org/aem/cnmp.html) for the certified AEM planner directory. In addition, to maintain certification, the certified AEM planner must remain a CCA by meeting continuing education requirements and successfully complete regular quality assurance reviews and recertification granted by the Commissioner of the New York State Department of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee and the Natural Resources Conservation Service State Conservationist.
- L. *Consistent Annual Progress*** means continued progress with the implementation of the site-specific Comprehensive Nutrient Management Plan (CNMP) such that work necessary to comply with the plan is balanced over the years given to come into compliance and not left until the last year before the compliance deadline. This is to allow the owner or operator to spread costs of implementation over a longer period of time to take advantage of funding opportunities and more favorable economic conditions.
- M. *Date of Coverage*** means the date the permittee is authorized for coverage under this permit.
- N. *Department*** means the New York State Department of Environmental Conservation.
- O. *Discharge or Propose to Discharge*** Discharge means any release of manure or process wastewater, including releases from feed storage areas, that has come in contact with the waters of New York State. A facility does not discharge or propose to discharge when it is designed,

constructed, operated and maintained not to discharge. This means that the Large CAFO permittee has fully implemented all structural and non-structural management practices necessary to meet NRCS 312 as determined by an objective and certified assessment by an AEM certified comprehensive nutrient management planner documented in the facility's Comprehensive Nutrient Management Plan. This technical evaluation must address the following elements:

- a.** Information to be used in the design of the open manure, litter and process wastewater storage areas including, but not limited to, the following: minimum storage periods as determined by the CAFO's CNMP, additional minimum capacity for precipitation, applicable technical standards that prohibit or otherwise limit land application during adverse weather conditions, planned emptying and dewatering schedules consistent with the CAFO's CNMP, additional storage capacity for manure, litter and process wastewater intended to be transferred to another recipient at a later time, and any other factors that would affect the sizing of the open manure storage structure.
- b.** The design of the open manure, litter and process wastewater storage areas as determined by a Professional Engineer according to NRCS standards or by the most recent version of the Natural Resources Conservation Service's Animal Waste Management (AWM) software.
- c.** All inputs used in the open manure, litter and process wastewater storage areas design including actual climate data for the previous 30 years consisting on historical average monthly precipitation and evaporation values or, if not available, the most current available climate data, the number and types of animals, anticipated animal sizes or weights, any added water and bedding, any other process wastewater, and the size and condition of outside areas exposed to rainfall and contributing runoff to the open manure, litter and process wastewater storage areas.
- d.** The planned minimum period of storage in months or specification of the times that the open manure, litter and process wastewater storage areas will be emptied consistent with the CAFO's CNMP.
- e.** Site-specific predicted design specifications including dimensions of the storage facility, daily manure and wastewater additions, the size and characteristics of the land application areas, and the total calculated storage period in months.
- f.** An annual re-evaluation of the adequacy of the designed open manure, litter and process wastewater storage areas is required. The preferred method for this evaluation shall be in accordance with the existing design, certification and operation and maintenance requirements of the wastewater storage areas by a Professional Engineer and the fully implemented annually updated CNMP developed and certified by an AEM Certified Planner. The system of practices detailed in the facility's CNMP must have addressed the transfer, handling, storage and treatment of manure and process wastewater generated

from the production areas including volumes, precipitation on open structures, storage capacities based on the site specific nutrient management plan, details of storage designs and certifications of practices based on NRCS standards and operation and maintenance requirement. In addition, the site specific nutrient management plan for application of manure and process wastewater shall be compliant with NRCS-NY 590 to include compliant application methods, rates and timing based on manure and soil analyses, field specific risk assessments for nutrient and sediment transport potential, sheet and rill erosion control and application setbacks. This annual re-evaluation shall be documented in the CNMP and Annual NMP.

As an alternative the facility may choose to complete this annual evaluation using the most recent version of the Soil Plant Air Water (SPAW) Hydrology Tool. This must include all inputs to SPAW including but not limited to daily precipitation, temperature, and evaporative data for the previous 100 years, user-specified soil profiles representative of the CAFO's land application areas, planned crop rotations consistent with the CAFO's CNMP, and the final modeled result of no overflows from the designed open manure, litter and process wastewater storage areas. For those CAFOs where 100 years of local weather data for the CAFO's location is not available, CAFOs may use a simulation with a confidence interval analysis conducted over a period of 100 years. This annual re-evaluation shall be documented in the CNMP and Annual NMP.

- P. ***Existing Facility*** means a CAFO that met the definition of a CAFO as of the date of issuance of this General Permit.
- Q. ***Export*** means the transfer of manure, litter or process wastewater to other persons when the receiving facility is in direct control of:
  - (a) the application acreage; and
  - (b) the application rate; and
  - (c) the application times; and
  - (d) the transfer rate and time.
- R. ***Extreme Precipitation*** means the rainfall from a 25-Year, 24-Hour Rainfall Event.
- S. ***Groundwaters*** means those waters in saturated zones as per 6 NYCRR 700.1(16) with effluent limitations defined in 6 NYCRR 703.6.
- T. ***High-Risk Conditions*** means conditions as identified by the certified Agricultural Environmental Management (AEM) Planner that have the high likelihood of significant water quality impacts. The AEM planner will use the AEM program to determine high-risk conditions.
- U. ***Hydrologic Connection*** means the interflow and exchange between surface impoundments and surface water through an underground conduit or groundwater. In the context of this permit, the reduction of hydrologic connection refers to reducing the groundwater flow contact which would

result in the transfer of pollutants from Concentrated Animal Feeding Operation containment structures into surface waters as per ECL article 17-0105 (17).

- V. ***Land Application Area*** means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied. This includes land on which manure, litter or process wastewater is applied and the CAFO owner or operator controls: the application acreage or application rate or application times.
- W. ***Liner*** means any barrier in the form of a layer, membrane or blanket, installed to prevent a significant hydrologic connection between liquids contained in retention facilities and structures and waters of the State.
- X. ***Major Changes*** to the CNMP means increasing the number of animals over the allowable number identified in the existing CNMP, construction of a new or expanded liquid or semisolid waste storage facility greater than one million gallons, or any other operational or structural change necessary to remediate a CNMP that has proven ineffective in achieving the general objectives of preventing pollutants in discharges from the CAFO.

A Major Change requires the facility to update its CNMP and:

1. Medium CAFOs to submit an amended CNMP Certification form with a description of this change 30 days prior to the scheduled implementation to the Department;
2. Large CAFOs to submit an amended Annual NMP with a description of this change 30 days prior to the scheduled implementation to the Department.

A revision to the CNMP in accordance with all applicable NRCS standards to address alterations in facility operation prior to the implementation of the change in direct consultation with a certified AEM planner is not considered a major change and the Department must be notified through the annual report submittal.

- Y. ***New CAFO*** means those operations that meet the definition of a Medium or Large CAFO and are constructed and operated after the date of permit issuance.
- Z. ***New Source*** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after February 12, 2003 and meets the following:
  - i. Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition in 40 CFR 122.2; and
  - ii. It is constructed at a site at which no other source is located; or

- iii. It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - iv. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Department shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.
- AA.** *NRCS* means the Natural Resources Conservation Service of the United States Department of Agriculture
- AB.** *Overflow* means any release of manure or process wastewater, including releases from feed storage areas, from the production area.
- AC.** *Pasture Area* means a unit of land on which exists a suitable amount, type, and distribution of vegetation; is managed to complement the nutritional requirements of the resident livestock; and maintains adequate vegetative cover during the growing season to promote water infiltration and filtration of runoff.
- AD.** *Point Source* means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges.
- AE.** *Production Area* means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas.
- i. The animal confinement area includes but is not limited to non-vegetated open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, calf-hutch areas, medication pens, walkers, animal walkways, and stables.
  - ii. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, temporary or permanent stacking areas, under-house or pit storages, liquid impoundments, static piles, areas for storage of manure treatment products and composting piles.
  - iii. The raw material storage area includes but is not limited to feed silos, silage bunkers, and bedding materials.
  - iv. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated stormwater.

- v. Any egg-washing or egg-processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

**AF.** *Process Wastewater* means any process-generated wastewater in the operation of an Animal Feeding Operation including

- i. Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing of calf hutches, pens, barns, manure storage areas or manure pits.
- ii. Direct contact swimming, washing, or spray-cooling of animals.
- iii. Leachate from silage/feed storage areas or mortality compost areas.
- iv. Wastewater generated in the production of intermediate or final products such as eggs and milk.
- v. Precipitation which comes into contact with any area where organic materials are stored, fed or wasted such as silos, bunk silos, organic bedding storage, grain storage, commodity buildings, feed bunks, and manure or wastewater storage or treatment facilities.

Process-generated wastewater does not include: precipitation related runoff from pastures; driveways; roof areas; or laneways where animals do not congregate; cropfields where manure is applied in accordance with "NRCS No. NY590", or effluent from vegetated filter areas that are designed and maintained in accordance with "NRCS No. NY312".

- AG. *Proper Operation and Maintenance*** means proper operation and maintenance of Best Management Practices that includes, but is not limited to, activities such as periodic solids removal to maintain storage capacity and protect the required freeboard requirements, maintenance of berms and sidewalls including mowing, prompt repair of any deficiencies, mowing and removal of vegetation from wastewater treatment strips, and appropriate dewatering activities. Proper operation and maintenance must be done in accordance with the requirements of Section VI of this General Permit and all applicable NRCS standards. Concentrated Animal Feeding Operations (CAFOs) must actively implement BMPs to maintain the appropriate production area capacity, including the capacity to contain the runoff and precipitation from the 25-year, 24-hour storm event in manure storage structures and reception pits.
- AH. *Retention Facility or Retention Structures*** means any structure(s) used for the retention/storage of wastes on the premises until their ultimate use. This includes the retention of manure, process wastewater, and/or runoff from the production area. These structures must be designed in accordance with all applicable NRCS standards (example: NRCS NY313 Waste Storage Facilities).
- AI. *Saturated Zones*** means any extensive portion of the earth's crust that contains sufficient water to fill all interconnected voids or pore spaces.
- AJ. *Setback*** means a specified distance from surface waters or potential conduits to surface waters. Examples of conduits to surface waters include but are not limited to open tile intake structures, sinkholes, and agricultural wellheads.
- AK. *Transfer Structures*** means any structure(s), such as pipelines, ditches, swales, etc. used to transfer manure, process wastewater, and/or runoff from the production area to retention facilities or structures or other BMPs. (example: NRCS NY634 Manure Transfer Structures).
- AL. *Vegetated buffer*** means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.
- AM. *Waters or Waters of the State*** –means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial limits of the State of New York and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction.

Storm sewers or conveyances, i.e. ditches, are not waters of the State unless they are classified in 6 NYCRR Parts 800 to 941. Nonetheless, a discharge to such shall be regulated as a discharge at the point where the conveyance discharges to waters of the State.

## **APPENDIX B – PERMIT REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AT CAFO FACILITIES**

**Stormwater Pollution Prevention Plans (SWPPPs) Required for Discharges of Stormwater From Construction Activity to Surface Waters** – There shall be no water quality impairment due to construction related activity.

An owner or operator of a facility with coverage under this CAFO general permit is not required to obtain coverage under SPDES General Permit for Stormwater Discharges from Construction Activity for construction activities performed at the site. Discharges from the construction activity will instead be authorized under this general permit, unless otherwise notified by the Department.

Although coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity is not required, an owner or operator must still develop a SWPPP and comply with the provisions of the SPDES General Permit for Stormwater Discharges from Construction Activity for some construction activities. At a minimum, an owner or operator must comply with the following requirements for the construction activities listed:

### **A. Construction of Operational and Vegetative Agricultural BMPs**

Construction of the following operational and vegetative agricultural BMPs as identified in the New York State Department of Agriculture and Markets document, “Agricultural Management Practices Catalogue for Nonpoint Source Pollution in New York State” are not required to comply with any of the provisions of the SPDES General Permit for Stormwater Discharges from Construction Activity:

- Conservation Tillage
  - Minimum Till
  - No Till
- Contour Farming
- Cover and Green Manure Crop
- Critical Area Protection
  - Permanent Vegetative Cover
- Crop Rotation
- Filter Strips
- Integrated Pest Management
  - Biological Controls
  - Cultural Practices
  - Resistant Crop Varieties
  - Scouting
  - Trap Crops
- Irrigation Water Management
  - Scheduling
- Nutrient Management

- Fertilizer Management
  - Land application of Manure
  - Manure Nutrient Analysis
  - Soil Testing
- Pathogen Management
- Pesticide Management
  - Computerized Precision Application
  - Evaluation of Site Specific Leaching and Surface Loss Potential
  - Pesticide Application Education and Training
  - Proper Equipment Calibration
  - Proper Timing of Pesticide Application
  - Read and Follow the Label Directions
- Riparian Forest Buffer
- Stripcropping

B. Construction of Structural Agricultural BMPs - Less Than 5 Acre Disturbance

Construction of the following structural agricultural BMPs as identified in the “Agricultural Management Practices Catalogue for Nonpoint Source Pollution in New York State” that disturb less than 5 acres of land are required to implement erosion and sediment control practices, designed in conformance with the Standards and Specifications for Erosion and Sediment Control, during construction:

- Access Road Improvement
- Alternative Water Supply (Ponds, if designated)
- Barnyard Runoff Management System
- Constructed Wetlands
- Critical Area Protection
  - Streambank and Shoreline Protection
- Diversions
- Fencing
- Grassed Waterways
- Irrigation Water Management
  - Trickle Irrigation
- Nutrient Management
  - Anaerobic Digestion
  - Composting
  - Manure Storage System
- Nutrient/Sediment Control System
- Pasture Management: Short Duration Grazing System
- Pesticide Handling Facility
- Petroleum Product Storage, Spill Prevention and Containment
- Silo Leachate Control (to include WWT Systems and created wetlands)
- Terraces
- Wetland mitigation projects

#### C. Construction of Structural Agricultural BMPs - 5 Acres or More Disturbance

Construction of the structural agricultural BMPs as identified in B above that disturb 5 acres or more of land are required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the Standards and Specifications for Erosion and Sediment Control, and post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department. The owners or operators of these facilities are also 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.

#### D. Other Construction Activities – Less Than 5 Acre Disturbance

Construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that disturb less than 5 acres of land are required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the Standards and Specifications for Erosion and Sediment Control. The owners or operators of these facilities are also 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.

#### E. Other Construction Activities – 5 Acres or More Disturbance

Construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that disturb 5 acres or more of land are required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the Standards and Specifications for Erosion and Sediment Control, and post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department. The owners or operators of these facilities are also 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.

Where required, the SWPPP shall conform to the *New York Standards and Specifications for Erosion and Sediment Control* and *New York State Stormwater Management Design Manual*, or current version, and shall be submitted to the Department only upon request. When a SWPPP is required, a properly completed *Notice of Intent* (NOI) form shall be submitted (available at <http://www.dec.ny.gov/chemical/8696.html>) prior to soil disturbance. Note that submission of a NOI is required for informational purposes; the permittee is not eligible for and will not obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity, nor are any additional permit fees incurred. SWPPPs must be developed for subsequent site disturbances in

accordance with the above requirements. The owner or operator is responsible for ensuring that the provisions of each SWPPP are properly implemented.

**APPENDIX C – DEC REGIONAL OFFICE CONTACT INFORMATION**

<b>REGION</b>	<b>COVERING THE FOLLOWING COUNTIES</b>	<b>DIVISION OF ENVIRONMENTAL PERMITS (DEP) PERMIT ADMINISTRATORS</b>	<b>DIVISION OF WATER (DOW) WATER (SPDES) PROGRAM</b>
<b>1</b>	NASSAU AND SUFFOLK	50 CIRCLE ROAD STONY BROOK, NY 11790 TEL. (631) 444-0365	50 CIRCLE ROAD STONY BROOK, NY 11790-3409 TEL. (631) 444-0405
<b>2</b>	BRONX, KINGS, NEW YORK, QUEENS RICHMOND	1 HUNTERS POINT PLAZA, 47-40 21 ST ST. LONG ISLAND CITY, NY 11101-5407 TEL. (718) 482-4997	1 HUNTERS POINT PLAZA, 47-40 21ST ST. LONG ISLAND CITY, NY 11101-5407 TEL. (718) 482-4933
<b>3</b>	DUTCHESS, ORANGE, PUTNAM, ROCKLAND, SULLIVAN, ULSTER AND WESTCHESTER	21 SOUTH PUTT CORNERS ROAD NEW PALTZ, NY 12561-1696 TEL. (845) 256-3059	100 HILLSIDE AVENUE, SUITE 1 W WHITE PLAINS, NY 10603 TEL. (914) 428 - 2505
<b>4</b>	ALBANY, COLUMBIA, DELAWARE, GREENE, MONTGOMERY, OTSEGO, RENSSELAER, SCHENECTADY AND SCHOHARIE	1150 NORTH WESTCOTT ROAD SCHENECTADY, NY 12306-2014 TEL. (518) 357-2069	1130 NORTH WESTCOTT ROAD SCHENECTADY, NY 12306-2014 TEL. (518) 357-2045
<b>5</b>	CLINTON, ESSEX, FRANKLIN, FULTON, HAMILTON, SARATOGA, WARREN AND WASHINGTON	1115 STATE ROUTE 86, PO BOX 296 RAY BROOK, NY 12977-0296 TEL. (518) 897-1234	232 GOLF COURSE ROAD, PO BOX 220 WARRENSBURG, NY 12885-0220 TEL. (518) 623-1200
<b>6</b>	HERKIMER, JEFFERSON, LEWIS, ONEIDA AND ST. LAWRENCE	STATE OFFICE BUILDING 317 WASHINGTON STREET WATERTOWN, NY 13601-3787  TEL. (315) 785-2245	STATE OFFICE BUILDING 207 GENESEE STREET UTICA, NY 13501-2885 TEL. (315) 793-2554
<b>7</b>	BROOME, CAYUGA, CHENANGO, CORTLAND, MADISON, ONONDAGA, OSWEGO, TIOGA AND TOMPKINS	615 ERLE BLVD. WEST SYRACUSE, NY 13204-2400 TEL. (315) 426-7438	615 ERLE BLVD. WEST SYRACUSE, NY 13204-2400 TEL. (315) 426-7500
<b>8</b>	CHEMUNG, GENESEE, LIVINGSTON, MONROE, ONTARIO, ORLEANS, SCHUYLER, SENECA, STEUBEN, WAYNE AND YATES	6274 EAST AVON-LIMA ROAD AVON, NY 14414-9519 TEL. (585) 226-2466	6274 EAST AVON-LIMA RD. AVON, NY 14414-9519 TEL. (585) 226-2466
<b>9</b>	ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE, NIAGARA AND WYOMING	270 MICHIGAN AVENUE BUFFALO, NY 14203-2999 TEL. (716) 851-7165	270 MICHIGAN AVE. BUFFALO, NY 14203-2999 EL. (716) 851-7070