



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-0-14-001

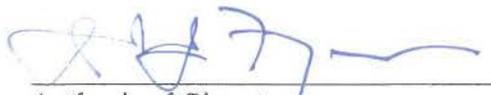
Issued Pursuant to Article 17, Title 7, and Article 70  
Of the Environmental Conservation Law

Effective Date: **July 1, 2014**  
Modification Date:

Expiration Date: **June 30, 2016**

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Authorized Signature

6-17-14  
Date

## PREFACE

This General Permit is issued pursuant to Article 17, Title 7 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 Submittal* (“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/permits/6285.html>

An *owner or operator* of a *new CAFO* that is deemed eligible for coverage under this General Permit must obtain coverage prior to operation of the *CAFO* facility. An *owner or operator* of an existing *CAFO* that becomes eligible for coverage under this General Permit must obtain coverage prior to termination of coverage under the Clean Water Act (CWA) SPDES General Permit for *CAFOs*. 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 of this General 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 this General Permit prior to operation of a *CAFO facility*.

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

**TABLE OF CONTENTS**

<b>Part I. PERMIT COVERAGE AND LIMITATIONS .....</b>	<b>5</b>
<b>A. Facilities Eligible To Be Covered By This Permit.....</b>	<b>5</b>
<b>B. Maintaining Water Quality.....</b>	<b>5</b>
<b>C. Exclusions and Exemptions From Coverage Under This Permit.....</b>	<b>7</b>
<b>D. Requiring An Individual SPDES Permit.....</b>	<b>8</b>
<b>E. Construction Activity at CAFO Facilities.....</b>	<b>8</b>
<b>Part II. OBTAINING PERMIT COVERAGE .....</b>	<b>8</b>
<b>A. Duty to File A Notice of Intent.....</b>	<b>8</b>
<b>B. Duty to File A Notice of Termination.....</b>	<b>9</b>
<b>C. Duty to File A Change of Status.....</b>	<b>9</b>
<b>Part III. COMPREHENSIVE NUTRIENT MANAGEMENT PLANS .....</b>	<b>10</b>
<b>A. Comprehensive Nutrient Management Plan (CNMP) .....</b>	<b>10</b>
<b>B. Certification of the CNMP .....</b>	<b>12</b>
<b>C. Implementation of CNMP Requirements.....</b>	<b>12</b>
<b>D. Duty to Amend the CNMP .....</b>	<b>14</b>
<b>E. Compliance with the CNMP.....</b>	<b>15</b>
<b>Part IV. INSPECTION AND MAINTANENCE REQUIREMENTS .....</b>	<b>15</b>
<b>A. Inspection and Entry .....</b>	<b>15</b>
<b>B. Proper Operation and Maintenance.....</b>	<b>15</b>
<b>Part V. MONITORING, REPORTING AND RETENTION OF RECORDS.....</b>	<b>16</b>
<b>A. Anticipated Non-Compliance.....</b>	<b>16</b>
<b>B. Overflow and Discharge Reporting.....</b>	<b>16</b>
<b>C. All Other Non-Compliance .....</b>	<b>16</b>
<b>D. Penalties for Falsification of Reports or Monitoring Systems .....</b>	<b>16</b>
<b>E. Retention of Records.....</b>	<b>16</b>
<b>F. Availability of Reports.....</b>	<b>16</b>
<b>G. Duty to Provide Information.....</b>	<b>16</b>
<b>H. Incomplete Information.....</b>	<b>17</b>
<b>I. Other Information .....</b>	<b>17</b>
<b>J. Signatories and Certification .....</b>	<b>17</b>
<b>K. On-Site Rain Gauge.....</b>	<b>17</b>

L. Annual Nutrient Management Plan Submittal (Annual NMP).....	17
M. Annual Compliance Report. ....	18
N. Annual Manure and Other Waste Analyses.....	18
O. Additional Facility Inspection and Recordkeeping Requirements for Medium CAFO....	18
P. Additional Inspection and Recordkeeping Requirements for Large CAFOs .....	18
Q. Recordkeeping Requirements for CAFOs using an Anaerobic Digester .....	19
<b>Part VI. GENERIC BEST MANAGEMENT PRACTICES .....</b>	<b>20</b>
A. Prohibition on Unauthorized Substances. ....	20
B. Proper Operation and Maintenance Requirements. ....	20
C. Waste Application Requirements.....	20
D. Field Setback Requirements. ....	21
E. Other Best Management Practices.....	21
<b>Part VII. GENERAL PROVISIONS.....</b>	<b>23</b>
A. Duty to Comply. ....	23
B. Penalties for Violations of Permit Conditions. ....	23
C. Continuation of the Expired General Permit.....	23
D. Permit Actions. ....	24
E. Need to Halt or Reduce Activity Not a Defense .....	24
F. Property Rights. ....	24
G. Severability.....	24
H. Department Orders or Civil Decrees/Judgment.....	24
I. Department Request for Information.....	24
J. Requirements for Other Permits.....	24
K. Shop Drains. ....	24
L. Compliance With Water Quality Standards.....	24
M. Existing Permits.....	25
<b>APPENDIX A – DEFINITIONS .....</b>	<b>26</b>
<b>APPENDIX B – PERMIT REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AT CAFO FACILITIES .....</b>	<b>34</b>
<b>APPENDIX C – DEC REGIONAL OFFICE CONTACT INFORMATION.....</b>	<b>38</b>

## **Part I. PERMIT COVERAGE AND LIMITATIONS**

### **A. Facilities Eligible to Be Covered by This Permit.**

**Existing Small or Medium CAFOs.** Unless excluded from coverage in accordance with Part I.C. or Part I.D. of this permit, owners or operators of existing Small or Medium CAFOs are eligible for coverage under this General Permit if they have fully implemented all of the non-structural practices identified in the CNMP (unless the Agricultural Environmental Management (AEM) certified planner and the owner and operator determine that a structural practice not yet scheduled to be installed is required in order for the non-structural practice to be fully operational), are complying with the implementation schedule requirements in Part III.C. and are appropriately operating and maintaining all implemented practices.

**Existing Large CAFOs.** Unless excluded from coverage in accordance with Part I.C. or Part I.D. of this permit, owners or operators of existing Large CAFOs that have fully implemented all required practices identified in the CNMP and are complying with the requirements in Part III.A. of this General Permit are eligible for coverage under this permit.

**New Small or Medium CAFOs.** Unless excluded from coverage in accordance with Part I.C. or Part I.D. of this permit, owners or operators of new Small or Medium CAFOs are eligible for coverage under this General Permit if they have implemented all of the non-structural practices identified in the CNMP (unless the AEM certified planner and the owner and operator determine that a structural practice not yet scheduled to be installed is required in order for the non-structural practice to be fully operational), are complying with the implementation schedule requirements in Part III.C. and are appropriately operating and maintaining all implemented practices.

**New Large CAFOs.** Unless excluded from coverage in accordance with Part I.C. or Part I.D. 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, the Clean Water Act (CWA) and the Environmental Conservation Law (ECL) for a facility with coverage under this General Permit to discharge. A facility should not 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 Natural Resources Conservation Service (NRCS) Conservation Practice Standard No. NY312 (NRCS NY312) as determined by an objective and certified assessment by an AEM certified planner documented in the facility's CNMP. This means that the Medium CAFO permittee has fully implemented all non-structural management practices necessary to meet NRCS NY312 as determined by an objective and certified assessment by an AEM certified planner documented in the facility's CNMP and is complying with the implementation schedule requirements in Part III.C and is appropriately operating and maintaining all implemented practices.

The technical evaluation to demonstrate that a facility does not discharge must address the following elements:

- a. Information to be used in the design of open waste storage areas for manure, litter, food processing waste, digestate, and process wastewater, 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, food processing waste, digestate, and process wastewater intended to be transferred to another recipient at a later time, and any other factors that would affect the sizing of open waste storage structures.

- b. The design and construction of open waste storage areas for manure, litter, food processing waste, digestate, and process wastewater are in accordance with NRCS standards or the most recent version of NRCS's Animal Waste Management (AWM) software as determined by a Professional Engineer.
- c. All inputs used in the design of open waste storage areas for manure, litter, food processing waste, digestate, and process wastewater including actual climate data for the previous 30 years consisting of 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 waste storage areas.
- d. The planned minimum period of storage in months or specification of the times that the open waste storage areas for manure, litter, food processing waste, digestate, and process wastewater will be emptied is consistent with the CAFO's CNMP.
- e. Site-specific predicted design specifications including dimensions of the storage facility, daily manure, litter, food processing waste, digestate, and process 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 waste storage areas for manure, litter, food processing waste, digestate, and process wastewater is required. The preferred method for this evaluation shall be in accordance with the existing design, certification and operation and maintenance requirements of the storage areas established by a Professional Engineer or NRCS employee with appropriate job approval authority 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, litter, food processing waste, digestate, and process wastewater 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 requirements. In addition, the site specific nutrient management plan for application of manure, litter, food processing waste, digestate, and process wastewater shall meet NRCS NY590 to include compliant application methods, rates and timing based on manure, litter, food processing waste, digestate, and process wastewater analyses 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, for Large CAFOs, in the Annual Nutrient Management Plan (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, food processing waste, digestate, 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, for Large CAFOs, in the Annual NMP.

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 ECL Section 17-0501 and Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR). 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 an AEM certified planner and the Department notified in accordance with Part V.B. of this General Permit.

Discharges composed entirely of a precipitation-related discharge of manure, litter or process wastewater where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, with site specific conservation practices to control runoff, appropriate testing of manure, litter, process wastewater and soil, and adequate documentation and recordkeeping, is agricultural stormwater. As such, this discharge is exempt from CWA permit requirements.

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

- a. The following Small or Medium CAFOs are **not eligible** for coverage under this permit:
  1. Small or Medium CAFOs that the Department has determined, prior to the date of coverage, to be causing or contributing to a water quality standards violation;
  2. Small or Medium CAFOs which have been notified by the Department to file for an individual SPDES permit as discussed in Part I.D. of this General Permit;
  3. Small or Medium CAFOs which have been notified by the Department to file for a non-administratively renewed CWA CAFO SPDES General Permit.
  4. Small or 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).
  5. Small or Medium CAFOs that discharge to surface waters. These CAFOs must have either CWA CAFO SPDES General Permit coverage or individual SPDES permit coverage.
- b. The following Large CAFOs are **not eligible** for coverage under this permit:
  1. Large CAFOs that the Department has determined, prior to the date of coverage, to be causing or contributing to a water quality standards violation;
  2. Large CAFOs which have been notified by the Department to file for an individual SPDES permit as discussed in Part I.D. of this General Permit;

3. Large CAFOs which have been notified by the Department to file for a non-administratively renewed CWA CAFO SPDES General Permit.
4. 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).
5. Large CAFOs that discharge to surface waters. These CAFOs must have either CWA CAFO SPDES General Permit coverage or individual SPDES permit coverage.

**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 a complete 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. Any CAFO facility may also request an individual SPDES permit as provided in 6NYCRR Parts 621 and 750 *et seq.*
- c. 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.**

Unless otherwise notified by the Department, an owner or operator of a facility with coverage under this CAFO General Permit shall also obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity (SPDES Construction Permit or most recent version) for certain construction activities. Prior to commencing any construction activity at the facility, the owner or operator must comply with the requirements in Appendix B of this General Permit.

**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 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 General Permit and not already covered by a CWA SPDES General Permit shall submit a Notice of Intent and CNMP Certification to the Department by March 31, 2010. Notifications for a new or expanded facility must be made at least 15 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 AEM certified planner, and a copy of the NOI, CNMP Certification and a copy of this permit shall be retained on site in accordance with Part III.E. of this General Permit.

Owners or operators of Existing Large CAFOs eligible to be covered by this General Permit and not currently covered by a CWA SPDES General Permit shall submit a NOI form and Annual

NMP to the Department in an acceptable format by March 31, 2010. Notifications for a new or expanded facility must be made at least 15 days prior to commencing operation of the new facility or the facility expansion, respectively. The NOI form (or photocopy thereof) and Annual NMP shall be signed by the owner and AEM certified planner, and a copy of the NOI, Annual NMP and a copy of this permit shall be retained on site in accordance with Part III.E. of this General Permit.

Owners or operators of Medium and Large CAFOs with CWA CAFO SPDES General Permit coverage (GP-04-02 or current permit) that become eligible to be covered by this General Permit in the future shall submit a NOI and CNMP Certification (if Medium) or Annual NMP (if Large) to the Department in an acceptable format. Once the Department has notified the facility that coverage has been granted under this General Permit coverage under the CWA CAFO SPDES General Permit will automatically be terminated.

15 days prior to a facility expansion beyond the maximum animal threshold that defines a Medium CAFO, the facility must have all Best Management Practices (BMPs) required by their CNMP implemented and must meet the eligibility criteria for this General Permit as a Large CAFO as described in Part I.A. and Appendix A and submit a revised NOI and Annual NMP to the Department. An expanded facility (Medium CAFO to Large CAFO) not meeting the eligibility requirements of this General Permit must immediately either submit a Notice of Termination and apply for coverage under a non-administratively renewed CWA CAFO General Permit as a Large CAFO or apply for coverage under an individual SPDES permit.

If the facility exceeds the animal threshold that defines a Medium CAFO and fails to apply for coverage under this CAFO General Permit as a Large CAFO a minimum of 15 days prior to this expansion, the facility is in violation of this General 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, unless otherwise designated by the Department, 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. If the operation shall continue to operate below the animal threshold requirements of this General Permit, a Notice of Termination may be submitted and the structural facilities may be maintained and all residual wastes from the CAFO facility handled in accordance with a nutrient management plan.

**C. Duty to File a Change of Status.**

Coverage under this permit is transferable to a new owner or operator. The current permittee, the new owner or operator and an AEM certified planner must sign and submit a complete *Change of Status 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 Part III.D. of this permit and submit a revised CNMP Certification or Annual NMP submittal as applicable.

Submit **Notice of Intent, Notice of Termination, or Change of Status** 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 General 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 and in accordance with NRCS NY312. The CNMP 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 in conjunction with an AEM certified planner. The activities and responsibilities of the CNMP personnel shall address all aspects of the facility's CNMP.
- b. **CNMP Content.** All areas where nutrient sources, including but not limited to, manure, litter, process wastewater, food processing waste, digestate, or fertilizer are produced, land applied or stored on or for use by the facility shall be addressed in the CNMP. This shall include all production areas and land application areas under the control of the CAFO operation where any nutrient source is produced, stored or land applied. Areas under the control of the CAFO operation where fermented forages are stored and exported to the CAFO for feed 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, or process wastewater applications by the facility need not be included in the CNMP.
- c. **CNMP Implementation Schedule.** All CAFO owners and operators must include in the CNMP a CNMP implementation schedule; this must include:
  1. any required new BMPs and any necessary updates or replacement of existing BMPs;
  2. an estimate of the installation of BMPs not yet needed for compliance with this General Permit that will be needed to address future operational or management changes at the CAFO as described in the paragraph above. These not yet needed BMPs shall be implemented in accordance with the requirements of this General Permit; and
  3. may also include BMP enhancements being implemented by the facility beyond the requirements of this general permit.

The CNMP shall also include routine operation and maintenance requirements for BMPs. Failure to properly operate and maintain a BMP in accordance with the requirements of the applicable NRCS standard and CNMP is a violation of this General Permit and must be corrected immediately.

- d. **Compliance with NRCS Standards.** Practices identified in the CNMP shall be designed, constructed, operated and maintained in accordance with **NRCS NY312 and all applicable**

**New York State NRCS standards** in place at the effective date of this General Permit, with the exception of NRCS NY590. For NRCS NY590 either the 2007 or the 2013 standard is applicable. When updating existing BMPs, the CNMP must prescribe a management system to provide equivalent protection of the environment during construction and transition periods.

1. For New or Expanded BMPs:
  - i. Designs and implementation must be done in accordance with all applicable NRCS Standards in place at the effective date of this General Permit.
  - ii. BMP implementation shall be under the oversight of an AEM certified planner;
2. For Existing Open Waste Storage Structures (does not include enclosed under-barn waste storage structures):

Existing open 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” (available at: [www.nys-soilandwater.org/aem/cnmp.html](http://www.nys-soilandwater.org/aem/cnmp.html)) and any deficiencies and required improvements identified and implemented. Following implementation of the required improvements, the Professional Engineer shall certify, in writing, that the required improvements were completed to his/her satisfaction. Documentation of the evaluation, required improvements and certification shall be maintained by the facility. Existing Medium CAFOs must complete this evaluation prior to permit authorization and must address any deficiencies in accordance with Part III.C. of this General Permit. Large CAFOs must have completed this evaluation and addressed any deficiencies prior to permit authorization.

3. Existing BMPs (including: (1) vegetated treatment areas, (2) permanent waste transfer 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 in accordance with applicable NRCS standards, and (3) all existing required BMPs that are improperly functioning):

Existing vegetated treatment areas and permanent waste transfer structures as described above must be evaluated by a Professional Engineer currently licensed to practice in New York State. Existing required BMPs that are improperly functioning must be evaluated under the oversight of an AEM certified planner or Professional Engineer currently licensed to practice in New York State as applicable. These evaluations must be complete by March 31, 2011.

Based on this evaluation:

- i. If the AEM certified planner and/or Professional Engineer for the facility, utilizing guidance from the Department, NRCS standards and AEM guidelines, deems one of these existing BMPs to be functioning as designed, to substantially meet the intent of the applicable NRCS standard in place at the effective date of this General Permit, and to be adequately protecting surface and groundwater quality, the facility shall:

- (i) document this consideration in the CNMP and in that years' Annual Compliance Report (including any differences);
- (ii) document any non-structural changes required in the new NRCS standard,
- (iii) implement those non-structural changes by March 31, 2011, and
- (iv) continue to monitor the existing BMP for conditions that require a modification;

OR

- (v) If the AEM certified planner and/or Professional Engineer for the facility deems one of these existing BMPs to NOT 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 by March 31, 2012 for Large CAFOs or in accordance with the provisions of Part III.C. for Medium CAFOs.
- 4. For new Digesters, designs and implementation must be done in accordance with all applicable NRCS Standards.
  - 5. Existing Digesters that have not previously permitted or registered under 6NYCRR Part 360 or have not been designed and installed under the direction of a Professional Engineer currently licensed to practice in New York State, or an NRCS employee with the appropriate job approval authority, must be evaluated by a Professional Engineer currently licensed to practice in New York State to determine that the Digester meets NRCS conservation practices code 366. Documentation of the evaluation, required improvements and certification shall be maintained by the facility. A summary of this information shall be reported on the Annual Compliance Report.

**B. Certification of the CNMP.** The CNMP must be developed or reviewed by an AEM certified planner. The permittee *and* the AEM certified planner shall certify in accordance with the CNMP Certification form or Annual NMP submittal form that the CNMP has been prepared in accordance with "NRCS Conservation Practice Standard No. NY312" and this General Permit. CNMP development and certification shall be completed: within 6 months of Department receipt of a NOI for Expanded Facilities (AFO to Medium CAFO), 15 days prior to operation of a New Facility or prior to coverage under this General Permit for Existing 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 by March 31, 2012 unless allowed for as described below. Prioritization shall be in accordance with the established AEM risk evaluation protocols. The schedule shall assure consistent annual progress in completion of practices set forth within the CNMP and attainment of the implementation deadlines required by this General Permit. The AEM certified planner shall annually update this schedule including identification of what progress was made in the previous year. This schedule should also prescribe any BMP enhancements being implemented by the facility beyond the requirements of this General Permit.

1. New and Existing Medium CAFOs shall have all required *Non-Structural Practices* fully operational prior to submitting the NOI and CNMP Certification, unless the AEM certified 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.
2. Expanded Medium CAFOs (AFOs expanded to Medium CAFOs) shall have all required Non-Structural Practices fully operational within 6 months of submitting the Notice of Intent, unless the AEM certified 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. Crop rotations shall be implemented according to standard agricultural practices within one crop year unless additional time is deemed necessary by the AEM certified planner and documented in the CNMP.
3. All Medium CAFOs shall have all required *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 AEM certified 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.
4. All Medium CAFOs shall have *all required practices* fully operational by **March 31, 2012**. Exceptions to this permit requirement include:
  - i. In situations where the AEM certified 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
  - ii. If the Medium CAFO makes a request for an extension to the Department's Central Office in Albany 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 BMPs on the facility in that time period **AND** one or more of the following:
    - (i) A grant has been applied for and approved, and scheduling or proper permits have yet to be acquired and/or
    - (ii) financial conditions prohibit hiring of required vendors or contractors and/or
    - (iii) financial conditions prohibit completion of all required installations by March 31, 2013, but some are proceeding and will be completed by June 30, 2014.

Any extension request must be approved by DEC no later than March 31, 2013 and *all practices* must be fully operational by **June 30, 2014**.

Any Medium CAFO qualifying for the exceptions in 1 or 2 above shall immediately implement appropriate corrective actions to mitigate any environmental impact as per the direction of the AEM certified planner or the Department.

- b. For All Large CAFOs All practices necessary for full compliance with this General Permit must be fully operational prior to permit coverage. All necessary updates shall be done in accordance with Part III.A. of this General Permit.

**D. Duty to Amend the CNMP.** All changes in the operation of the facility or implementation of the CNMP as required by this General Permit shall be recorded in the CNMP. The permittee shall amend the CNMP under the direction of an AEM certified 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.
- b. The permittee shall amend the CNMP, under the direction of an AEM certified 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 surface waters of the State; expanding operations beyond the contingencies specified in the CNMP; or, if the CNMP 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 an AEM certified planner, prior to any changes that could cause the facility to discharge so as to maintain its eligibility for coverage under this General 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 General 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. At least 15 days *prior to* increasing the number of animals 20% above the 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 manure, litter, food processing waste, digestate, and process wastewater 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 submittal to the Department or description of the change signed by both the AEM certified planner and permittee.
- 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 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. Prior to implementation of this major change, 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 or description of the change signed by both the AEM certified planner and permittee.
- g. All other revisions 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 an AEM certified planner are not considered major changes with the exceptions as described above, although they must 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 directed 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 BMPs 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.** At least 45 days prior, the permittee shall give advanced notice to the appropriate DEC Regional Water Engineer of any of the following, that is very likely or certain to result in non-compliance with any General Permit requirements and where the permittee knows or has reason to know about such anticipated non-compliance 60 or more days before it occurs:
- any changes in the permitted facility or activity that is required to be included in the CNMP that would occur as part of a construction project, or;
  - that which is part of the permittee's required routine operation and maintenance program in the CNMP.
- B. Overflow and Discharge Reporting.** If, for any reason, the permittee knows or has reason to believe there is a discharge of process wastewater 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, or there is an overflow of manure, litter, food processing waste, digestate, and process wastewater from a waste storage structure, the permittee shall:
- Twenty-four Hour Reporting:** Notify the DEC Regional Office orally within 24 hours from the time that the permittee becomes aware of the discharge or overflow;
  - Five-day Reporting:** Submit a written *CAFO Incident Report* to the DEC Regional Office within 5 business days from the time that the permittee becomes aware of the discharge or overflow.
- 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 NMP submittals 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 General Permit. The permittee shall also furnish to the Department, upon request, copies of records, reports, etc. required to be kept by this General 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 production area. All rain events in excess of 0.3 inch shall be measured, recorded and kept as part of the normal CNMP recordkeeping.
- L. Annual Nutrient Management Plan Submittal (Annual NMP).** Large CAFOs shall annually submit the facility's Annual Nutrient Management Plan in either electronic (PDF only) format or via paper copy to the Department by March 31<sup>st</sup> of each year. This annual information submittal

shall assert compliance with the no discharge requirements of this General Permit, as defined in Appendix A. Any changes to this submittal shall be made in accordance with prior approval from the AEM certified planner. 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**

1. Farmstead Facility Plan Maps or
2. Farmstead Facility Plan Narratives

b. **Field Elements**

1. Field Maps
2. Field Information

c. **Owner or operator signature and AEM certified 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. The report must be signed by both the owner or operator and an AEM Certified Planner.

**N. Annual Manure and Other Waste Analyses.** All CAFOs must analyze each individual land-applied waste source (manure, litter, food processing waste, digestate, and process wastewater) at least once annually for total nitrogen, ammonium, total phosphorus, total potassium, chloride (if food processing waste is included in the waste, and percent solids) in accordance with NRCS NY590 unless a more frequent sampling is deemed appropriate by the AEM certified planner.

**O. Additional Facility Inspection and Recordkeeping Requirements for Medium CAFOs.** In addition to compliance with the requirements of NRCS 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 the time of application and the day prior to and the day following application. This must include actual precipitation in excess of 0.3 inches and forecasted conditions;
- b. Perform and record weekly inspections of the depth marker reading for manure and process wastewater in any open liquid storage structures to ensure adequate volume exists to maintain the minimum freeboard necessary as per NRCS standards and this General Permit plus the capacity necessary to contain the 25-year, 24-hour rainfall event;
- c. Records of method and handling, including annual capacity of method, and total annual number of animal mortalities;
- d. Records of all land application of manure, litter, food processing waste, digestate, 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 NRCS NY312 and the additional recordkeeping

requirements in the individual facility's CNMP, all Large CAFOs shall comply with the following:

- a. Perform and record weekly inspections of all storm water diversion devices, runoff diversion structures, manure storage structures, and devices channeling contaminated storm water to the manure storage and containment structure;
- b. Perform and record weekly inspections of the depth marker reading for manure, litter, food processing waste, digestate, and process wastewater in any open liquid storage structures to ensure adequate volume exists to maintain the minimum freeboard necessary as per NRCS standards and this General Permit plus the capacity necessary to contain the 25-year, 24-hour rainfall event;
- c. Correct and record any deficiencies found as a result of daily and weekly inspections immediately;
- d. Records of method, including annual capacity of method, and total annual number of animal mortalities;
- e. Records of the design of the storage structures. Must include records of:
  1. Design estimate of volume of solids accumulation
  2. Approximate number of days' worth of storage capacity
  3. Design treatment volume
  4. Total design volume
  5. Calculations used to determine total design volume for storage structures;
- f. Records of overflows from the production areas, including the approximate date and time and an estimate of the volume;
- g. Records of all land applications of manure, litter, food processing waste, digestate, and process wastewater;
- h. Weather conditions at the time of application, the day prior to and the day following application. This must include actual precipitation and forecasted conditions; and
- i. Date(s) of manure application equipment inspection and calibration.

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

**Q. Recordkeeping Requirements for CAFOs using an Anaerobic Digester**

- a. The CAFO must keep written records of all materials entering and leaving the digester and the corresponding dates of entry and exit.
- b. The location of each field used for land application and the acreage used for land application of digestate must be recorded and maintained.
- c. The total quantity of digestate applied, including land application dates and quantity applied during each application on each field must be recorded and maintained.

## Part VI. GENERIC BEST MANAGEMENT PRACTICES

- A. Prohibition on Unauthorized Substances.** Sanitary waste, unless authorized pursuant to Part 360; unused pesticides; and any other material that cannot be properly handled at the CAFO, is prohibited from being stored in waste storage areas or conveyed through the waste storage transfer structures.
- B. Proper Operation and Maintenance Requirements.** The facilities covered by this General Permit are required to document the attainment of the effluent limitations required in Part I. and all applicable Generic BMPs used to comply with the effluent limitations in this permit. Such documentation shall be included in the CNMP required by Part III. of this permit.
- C. Waste Application Requirements.** Land application rates shall be in accordance with the CNMP and NRCS NY590. In no case shall land application rates or timing result in 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, food processing waste, digestate, and process wastewater during adverse weather conditions must be made under the considerations of the 2005 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 Flows.** Applications of manure, litter, food processing waste, digestate, 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 in artificially drained fields must be done with caution and under the direction of an AEM certified planner.
  - c. **Food Processing Waste.** As set forth in NRCS NY590, land application of food processing waste shall consider any and all necessary measures to minimize odors, such as incorporation, injection, and appropriate use of timing to avoid creating a nuisance.
  - d. **Food Processing Waste Containing Salt.** The land application rates of food processing waste shall not exceed a chloride loading of 170 lbs. per acre per year.
  - e. **Waste Without Benefit.** Land application of undigested fats, oils, and grease (FOG), or other waste with no quantifiable nutritive benefit to the soil or crop is not allowed.

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

- f. **Manure Applicator Training.** A minimum of two (2) individuals from each permitted Large CAFO facility must attend a NYSDEC- endorsed manure applicator training within the permit term. All subsequent applications of manure, litter, food processing waste, digestate, and process wastewater made by the CAFO must be done under the direct supervision of an individual who 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 the training of facility staff regarding the applicable requirements.

**D. Field Setback Requirements.** Unless the CAFO exercises one of the options provided for in (a.) or (b.) of this section, manure, litter, food processing waste, digestate, and process wastewater may not be applied closer than 100 feet from: (1) the top of the bank of any down-gradient 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 described above with a 35-foot wide vegetated buffer to down-gradient waters as described in Part VI.D. (1), (2), and (3) above.
- b. ***Alternative practice.*** As a compliance alternative, the CAFO may substitute the 100 foot-setback described above with a 15-foot wide setback to down-gradient waters as described in Part VI.D. (1), (2), and (3) above when manure, litter, food processing waste, digestate, and process wastewater is applied under the conservation practice of incorporation within 24 hours of the application as documented in the CNMP.

**E. Other Best Management Practices.** The following 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 manure, litter, food processing waste, digestate, process wastewater 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, and manure, litter, food processing waste, digestate, and process wastewater which will enter or be stored in the retention facilities or structure(s).
- b. The maximum operating level for open waste storage structures, earthen and fabricated, shall be indicated by a depth marker and be the level that provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one (1) foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The design storage volume includes the volume needed for manure, litter, food processing waste, digestate, and process wastewater storage according to the CNMP in accordance with the NRCS NY313 Standard Design criteria.
- c. 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 an AEM certified planner deems low-flow 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 inspections of the feed storage area to determine if low-flow leachate is leaving the pad. Furthermore, if an AEM certified planner deems high-flow leachate treatment unnecessary, a detailed description of this consideration

must be included in the CNMP. At its discretion, the DEC reserves the right to require leachate collection and treatment when determined applicable.

- d. 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.
- e. Barnyards 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.
- f. New facilities shall not be built in a surface water of the State, including wetlands, and must be built outside of the 100-year floodplain (excluding agricultural fields). New structures on existing facilities shall not be built in a surface water of the State, including wetlands, and 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 6NYCRR Parts 608 and 800-941, or Title 5 of Article 15 of the ECL as seen on the NYS Environmental Resource Mapper at: <http://www.dec.ny.gov/animals/38801.html>.
- g. Animals confined in the animal feeding operation must be prevented from coming in contact with the surface waters of the State while in the confinement area.
- h. There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted facility. New retention facilities and structures, holding pens or waste/wastewater treatment sites shall not be located closer to existing 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 conducted in accordance with the 2002 Cornell Waste Management Institute recommendations “[Natural Rendering: Composting](#)

[Livestock Mortality & Butcher Waste](http://compost.css.cornell.edu/naturalrenderingFS.pdf)". (available at <http://compost.css.cornell.edu/naturalrenderingFS.pdf>) or the applicable NRCS standard.

- l. Collection, storage, and disposal of liquid and solid waste must be managed in accordance with NRCS standards.
- m. Food processing waste may not exceed 50% of the annual stored volume in the manure storage facility covered by this General Permit. Manure storage facilities accepting greater than 50% food processing waste are subject to the permitting or registration requirements under Part 360.
- n. Non-farm generated organics such as food processing waste and FOG may not exceed 50% of the annual volume of waste placed in the anaerobic digester. Sanitary waste shall not be accepted into the anaerobic digester. Anaerobic digesters accepting greater than 50% non-farm generated organics or any sanitary waste are subject to the permitting or registration requirements under Part 360.
- o. Transfer of manure, litter, food processing waste, digestate, and process wastewater to other persons.

In cases where CAFO- generated manure, litter, food processing waste, digestate, and process wastewater is exported, sold or given away from a CAFO 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, food processing waste, digestate, and 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, food processing waste, digestate, and process wastewater as exported.
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 General Permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and is grounds for: an enforcement action; loss of authorization under this General Permit; and/or denial of a permit renewal application. A permittee's filing of a permit modification, reissuance or termination, or a notification of planned changes, anticipated non-compliance, or a violation of this permit does not limit, diminish or stay compliance with any terms of this General Permit.
- B. Penalties for Violations of Permit Conditions.** State Law provides that any person who violates a permit condition implementing ECL Article 17, Title 7, 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 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 associated documentation in accordance with the terms of such new General Permit.

- D. Permit Actions.** At the Department's sole discretion, this General Permit may be modified, revoked or suspended at any time.
- E. 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.
- F. Property Rights.** The issuance of this General 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 General Permit are severable, and if any provision of this General Permit, or the application of any provision of this General 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 General 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. 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 General Permit.
- J. Requirements for Other Permits.** This General Permit contains the legal requirements for compliance with 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.
- K. Shop Drains.** 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 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 Part III. of this permit. The Department may also require abatement actions to be taken by the permittee and may also pro-

hibit the noticed act until an individual SPDES permit has been issued. The Department may also undertake any other compliance action related to water quality protection or as otherwise authorized by the Environmental Conservation Law.

**M. Existing Permits.** Unless otherwise notified by the Department, coverage under this General 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 there from.
- B. **Agricultural Environmental Management Program (AEM)** means an environmental planning process that includes site-specific, risk-based assessments, technical planning and implementation of BMPs as set forth in New York Agriculture and Markets Law Article 11-A.
- C. **Agricultural Stormwater Discharge** means a precipitation-related discharge of manure, litter or process wastewater where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, with site specific conservation practices to control runoff, appropriate testing of manure, litter or process wastewater and soil, and adequate documentation and recordkeeping.
- D. **Agronomic Rates** mean the land application of manure, litter, food processing waste, digestate, and process wastewater at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth.
- E. **Anaerobic Digesters** means the unit process that utilizes biochemical decomposition of organic matter into methane and carbon dioxide by microorganisms in the absence of air.
- F. **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 the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they physically adjoin each other, or if they use a common area or system for the disposal of wastes.
- G. **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.
- H. **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. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, overflows or leaks, sludge or waste disposal, or drainage from raw material storage.
- I. **Common Ownership / Common Facility** means that two or more Animal Feeding Operations 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, a common facility, or under common ownership.

- J. ***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 production areas. Implementation of a CNMP is implementation of Best Available Technology Economically Achievable (BAT). The system of practices detailed in the facility’s CNMP must address, but is not limited to the transfer, handling, storage and treatment of manure, litter, process wastewater generated from the production areas, food processing waste, and digestate 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, litter, food processing waste, digestate, and process wastewater shall be compliant with NRCS NY590 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.
- K. ***Concentrated Animal Feeding Operation (CAFO)*** means an Animal Feeding Operation (AFO) that meets the criteria of either a Large or Medium CAFO or is designated as a Small CAFO by the Department. 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); or
- 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 as many as or more than the numbers of animals in any of the following categories:

- a. 200 to 699 mature dairy cows, whether milked or dry, except that an AFO that stables or confines 200-299 mature dairy cows, whether milked or dry that does not cause a discharge would not be considered a Medium CAFO;
- b. 300 to 999 veal calves;
- c. 300 to 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 to 2,499 swine, each weighing 55 pounds or more;
- e. 3,000 to 9,999 swine each weighing less than 55 pounds;
- f. 150 to 499 horses;
- g. 3,000 to 9,999 sheep or lambs;
- h. 16,500 to 54,999 turkeys;
- i. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
- j. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- k. 25,000 to 81,999 laying hens, if the AFO uses other than liquid manure handling systems;
- l. 10,000 to 29,999 ducks ( if the AFO uses other than a liquid manure handling system); or
- m. 1,500 to 4,999 ducks, (if the AFO uses a liquid manure handling system).

***Small Concentrated Animal Feeding Operation (Small CAFO)*** means an Animal Feeding Operation (AFO) that is designated by the Department as a CAFO or requests CAFO SPDES permit coverage and is not a Medium or Large CAFO. The Department, in determining whether to designate Small CAFOs, would consider the following factors:

1. the size of the AFO and the amount of wastes reaching waters of the State;
2. the location of the AFO relative to waters of the State;
3. the means of conveyance of animal wastes and process waste waters into waters of the State;
4. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure and process waste waters into waters of the State; and
5. other relevant factors.

Small CAFOs must meet all of the Medium CAFO regulatory requirements of this General Permit.

- L. ***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 NRCS training process, attended the four day CNMP development training course, successfully completed a three plan performance-based CNMP 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 NRCS State Conservationist, to develop and review CNMPs for CAFOs in New York State. The certified (AEM) planner must be listed in the New York State AEM certified 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 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 AEM certified planner directory. In addition, to maintain certification, the AEM certified 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 NRCS State Conservationist.

- M. ***Consistent Annual Progress*** means continued progress with the implementation of the site-specific 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.
- N. ***Date of Coverage*** means the date the permittee is authorized for coverage under this General Permit.
- O. ***Department*** means the New York State Department of Environmental Conservation.
- P. ***Depth Marker*** means a permanent marker or recorder installed at the maximum operating level to indicate the storage capacity of the structure. The maximum operating level for open waste storage structures, earthen and fabricated, shall be the level that provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one (1) foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The design storage volume includes the volume needed for manure storage according to the CNMP in accordance with the NRCS NY313 Standard Design criteria.
- Q. ***Digestate*** means the solid and liquid material remaining after anaerobic digestion.
- R. ***Discharge*** means any release of any pollutant, including but not limited to manure, litter, process wastewater, food processing waste, digestate, or releases from feed storage areas to waters of the State. Agricultural stormwater discharges as defined herein are exempt and do not classify a facility as discharging.

- S. ***Existing Facility or Existing CAFO*** means a CAFO that met the definition of a CAFO as of the effective date of this General Permit.
- T. ***Export*** means the transfer of manure, litter, food processing waste, digestate, 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.
- U. ***Extreme Precipitation*** means the rainfall from a 25-Year, 24-Hour rainfall event or greater.
- V. ***Food Processing Waste*** means waste resulting solely from the processing of fruits, vegetables, grains, dairy products, and related food products. It does not include waste from the processing of animal carcasses or parts. Food processing waste includes but is not limited to:
- a. vegetative residues that are recognizable as part of a plant, fruit or vegetable. Grape or apple pomace are considered recognizable.
  - b. any solid, semisolid or liquid food sludge or residue that is nonrecognizable but identifiable by analysis or can be certified as solely a byproduct of plant, fruit, vegetable or dairy processing.
- W. ***Groundwaters*** means those waters in saturated zones as per 6 NYCRR 700.1(22).
- X. ***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 certified planner will use the AEM program to determine high-risk conditions.
- Y. ***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).
- Z. ***Land Application Area*** means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which waste from the production area is or may be applied. This includes land on which manure, litter, food processing waste, digestate, or process wastewater is applied and the CAFO owner or operator controls the application acreage, application rate or application times.
- AA. ***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.

- BB. **Manure** means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.
- CC. **Major Changes to the CNMP** means increasing the number of animals 20% above the plan number specified in the existing CNMP, construction of a new or expanded to 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:

- a. Medium CAFOs to submit an amended CNMP Certification form with a description of this change 15 days prior to the scheduled implementation to the Department;
- b. Large CAFOs to submit an amended Annual NMP or a description of this change signed by both the AEM certified planner and permittee 15 days prior to the scheduled implementation to the Department.

All other revisions 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 an AEM certified planner are not considered major changes although the Department must be notified through the Annual Report submittal.

- DD. **New CAFO or New Facility** means those operations that meet the definition of a Medium or Large CAFO and are constructed and operated after the effective date of this General Permit.
- EE. **NRCS** means the Natural Resources Conservation Service of the United States Department of Agriculture.
- FF. **Overflow** means any untreated release of manure, litter process wastewater, food processing waste, digestate, or releases from feed storage areas, from the production area, unless the release enters a properly designed and functioning vegetated treatment area.
- GG. **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.
- HH. **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.
- II. **Production Area** means that part of an AFO including the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas.

- a. 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.
- b. 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.
- c. The raw material storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials.
- d. The waste containment area includes, but is not limited to, settling basins, and areas within berms and diversions which separate uncontaminated stormwater.
- e. Any egg-washing or egg-processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

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

- a. Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing of calf hutches, pens, barns, manure storage areas or manure pits.
- b. Direct contact swimming, washing, or spray-cooling of animals.
- c. Leachate from silage/feed storage areas or mortality compost areas.
- d. Wastewater generated in the production of intermediate or final products such as eggs and milk.
- e. 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 NY590, or effluent from vegetated treatment areas that are designed and maintained in accordance with NRCS NY312.

KK. ***Proper Operation and Maintenance*** means proper operation and maintenance of BMPs 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 Part 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.

- LL. ***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, litter, process wastewater, food processing waste, digestate, and runoff from the production area. These structures must be designed in accordance with all applicable NRCS standards (example: NRCS NY313 Waste Storage Facilities) or for existing waste storage structures built prior to the facility obtaining CAFO permit coverage, certified in accordance with Part VI. of this General Permit.
- MM. ***Saturated Zones*** means any extensive portion of the earth's crust that contains sufficient water to fill all interconnected voids or pore spaces.
- NN. ***Setback*** means a specified distance from surface waters or potential conduits to surface waters. Examples of conduits to surface waters includes, but are not limited to, open tile intake structures, sinkholes, and agricultural wellheads.
- OO. ***Transfer Structures*** means any structure(s), such as pipelines, ditches, swales, sumps, etc. used to transfer manure, litter, food processing waste, digestate, and process wastewater or runoff from the production area to retention facilities or structures or other BMPs. (example: NRCS NY634 Manure Transfer Structures).
- PP. ***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.
- QQ. ***Waste Storage Structure*** means any permanent retention facility or retention structure with a storage capacity of 7 days or longer or a storage volume equal to and/or greater than 10,000 gallons.
- RR. ***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, e.g. ditches, are not waters of the State unless they are mapped in 6 NYCRR Parts 800 to 941 or continuously flowing. Nonetheless, an overflow to the conveyance 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**

**Coverage Under The SPDES General Permit for Stormwater Discharges from Construction Activity Required for Certain Construction Activities** – 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 also required to obtain coverage under SPDES General Permit for Stormwater Discharges from Construction Activity (SPDES Construction Permit) for certain construction activities performed at the CAFO facility. Discharges from these construction activities will be authorized under the SPDES Construction Permit, unless the facility is otherwise notified by the Department.

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**

An owner or operator constructing one 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” is **not required** to comply with any of the provisions of the SPDES Construction Permit:

- 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** – With soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres:

An owner or operator constructing one of the following structural agricultural BMPs as identified in the “Agricultural Management Practices Catalogue for Nonpoint Source Pollution in New York State” that involve soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres, is required to implement erosion and sediment control practices, designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control, during construction. However, the owner or operator is not required to obtain coverage under the SPDES Construction Permit for these construction activities:

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** – With soil disturbances of five (5) or more acres of land:

An owner or operator constructing one of the structural agricultural BMPs as identified in B above that disturbs five (5) or more acres of land is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners or operators of these facilities are also required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control. For sites constructing a structural agricultural BMP identified in B that includes the construction or reconstruction of impervious area, the SWPPP must also address post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department.

**D. Other Construction Activities** – With soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres:

An owner or operator of construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that involve soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than 5 acres, is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners or operators of these facilities are also required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control.

**E. Other Construction Activities** – With soil disturbances of five (5) or more acres of land:

An owner or operator of construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that involve soil disturbances of five (5) or more acres of land is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners or operators of these facilities are also required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control. For construction projects that include the construction or reconstruction of impervious area, the SWPPP must also address post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department.

When required, the SWPPP shall conform to the most current versions of the *New York Standards and Specifications for Erosion and Sediment Control* and *New York State Stormwater Management Design Manual*, and shall be submitted to the Department only upon request. If alternative practices are used, the owner or operator must demonstrate equivalence to the Department's technical standards. When coverage under the SPDES Construction Permit is required, a properly completed SPDES Construction Permit *Notice of Intent* (NOI) form (available at <http://www.dec.ny.gov/chemical/43133.html>) shall be submitted to the Department (use address at top of NOI) prior to the commencement of soil disturbance

activity. 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.

For construction activities that are subject to the SPDES Construction Permit, the owner or operator shall file a Notice of Termination (NOT) for the SPDES Construction Permit when the construction activity identified in the SWPPP has been completed and all disturbed areas have achieved final stabilization as defined in the SPDES Construction Permit.

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

<b>REGION</b>	<b>COVERING THE FOLLOWING COUNTIES</b>	<b>SPILLS HOTLINE 24 Hour Reporting</b>	<b>DIVISION OF WATER (DOW) WATER (SPDES) PROGRAM</b>
<b>1</b>	NASSAU AND SUFFOLK	1-800-457-7362	50 CIRCLE ROAD STONY BROOK, NY 11790-3409 TEL. (631) 444-0405
<b>2</b>	BRONX, KINGS, NEW YORK, QUEENS RICHMOND	1-800-457-7362	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	1-800-457-7362	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	1-800-457-7362	1130 NORTH WESTCOTT ROAD SCHENECTADY, NY 12306-2014 TEL. (518) 357-2045
<b>5</b>	CLINTON, ESSEX, FRANKLIN, FULTON, HAMILTON, SARATOGA, WARREN AND WASHINGTON	1-800-457-7362	232 GOLF COURSE ROAD, WARRENSBURG, NY 12885 TEL. (518) 623-1212
<b>6</b>	HERKIMER, JEFFERSON, LEWIS, ONEIDA AND ST. LAWRENCE	1-800-457-7362	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	1-800-457-7362	615 ERIE 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	1-800-457-7362	6274 EAST AVON-LIMA RD. AVON, NY 14414-9519 TEL. (585) 226-5450
<b>9</b>	ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE, NIAGARA AND WYOMING	1-800-457-7362	270 MICHIGAN AVE. BUFFALO, NY 14203-2999 TEL. (716) 851-7070