



**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-04-02

Effective Date: July 1, 2004

Expiration Date: June 30, 2009

**William R. Adriance
Chief Permit Administrator**

**New York State Department of Environmental Conservation
Division of Environmental Permits, 4th Floor
625 Broadway
Albany, New York 12233-1750**

**William Adriance /S/
Authorized Signature**

**June 24, 2004
Date**

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
GENERAL PERMIT (GP-04-02)
State Pollutant Discharge Elimination System (SPDES) Permit
Concentrated Animal Feeding Operations (CAFOs)**

TABLE OF CONTENTS:

I.	DEFINITIONS	Page 3
II.	FACILITIES ELIGIBLE TO BE COVERED BY THIS PERMIT	Page 8
III.	EXCLUSIONS FROM COVERAGE UNDER THIS PERMIT	Page 9
IV.	REQUIRING AN INDIVIDUAL SPDES PERMIT	Page 9
V.	DUTY TO FILE: NOTICE OF INTENT NOTICE OF TERMINATION NOTICE OF TRANSFER	Page 10
VI.	EFFLUENT LIMITATIONS	Page 10
VII.	COMPREHENSIVE NUTRIENT MANAGEMENT PLANS (CNMP)	Page 11
VIII.	GENERIC BEST MANAGEMENT PRACTICES	Page 12
IX.	MONITORING AND REPORTING	Page 14
X.	GENERAL PROVISIONS	Page 17

APPENDICES:

- < **APPENDIX A - *Notice Of Intent and Notice of Transfer***
- < **APPENDIX B - *Comprehensive Nutrient Management Plan Certification (CNMP)***
- < **APPENDIX C - *Notice Of Termination***
- < **APPENDIX D - *Concentrated Animal Feeding Operation (CAFO) Annual Compliance Report***
- < **APPENDIX E - *Concentrated Animal Feeding Operation (CAFO) Incident Report***

GENERAL PERMIT (GP-04-02)
State Pollutant Discharge Elimination System (SPDES) Permit
Concentrated Animal Feeding Operations (CAFOs)

I. DEFINITIONS:

- A. *25-Year, 24-Hour Rainfall Event*** means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
- B. *The Act*** means Federal Water Pollution Control Act as amended, also known as the Clean Water Act, found at 33 USC 1251 et seq.
- C. *Agronomic Rates*** means the land application of animal wastes at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth.
- D. *Animal Feeding Operation (AFO)*** means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and where the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.
- E. *Best Available Technology Economically Achievable (BAT)*** means the Best Available Technology which is economically achievable as established under 301(b) and 402 of the Act. The criteria and standards for imposing technology-based treatment requirements are listed in 40 CFR 125.3.
- F. *Best Management Practices (BMPs)*** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. Best Management Practices also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- G. *Common Ownership*** means that two or more Animal Feeding Operations under common ownership are considered one operation if they, (1) adjoin each other, including facilities that are separated by a right-of-way or public road, (2) if they use a common manure and wastewater storage and handling system, or (3) if they use a common land application area. Operations sharing application systems that do not result in mixing of nutrients are not, by virtue of such sharing, under common ownership.
- H. *Comprehensive Nutrient Management Plan (CNMP)*** means a plan, in accordance with "Natural Resources Conservation Service - Conservation Practice Standard - Waste Management System (Number) Code NY312," to properly manage liquid and solid waste, including runoff from concentrated areas. Implementation of a CNMP is implementation of *Best Available Technology Economically Achievable (BAT)*.
- I. *Concentrated Animal Feeding Operation (CAFO)*** means an Animal Feeding Operation (AFO) that is defined as a Large CAFO or as a Medium CAFO, or that is designated by the Department or USEPA Regional Administrator as a CAFO. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals of an operation. Large and Medium CAFOs are defined as follows:

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

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

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

- a. 200-699 Mature Dairy Cows, whether milked or dry
- b. 300-999 Veal Calves
- c. 300-999 Cattle, other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs)
- d. 750-2,499 Swine, each weighing 55 pounds or more
- e. 3,000-9,999 Swine each weighing less than 55 pounds
- f. 150-499 Horses
- g. 3,000-9,999 Sheep or Lambs
- h. 16,500-54,999 Turkeys
- i. 9,000-29,999 Laying Hens or Broilers, if the AFO uses a liquid manure handling system
- j. 37,500-124,999 Chickens (other than laying hens), if the AFO uses other than a liquid manure handling system
- k. 25,000-81,999 Laying Hens, if the AFO uses other than liquid manure handling systems
- l. 10,000-29,999 Ducks, if the AFO uses other than a liquid manure handling system
- m. 1,500-4,999 Ducks, if the AFO uses a liquid manure handling system

and either one of the following conditions are met:

(a) pollutants are discharged into waters of the State through a man-made ditch, flushing system, or other similar man-made device; or (b) pollutants are discharged directly into waters of the State that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with animals confined in the operation.

- J. *Certified Agricultural Environmental Management (AEM) Planner*** means a planner deemed qualified by the Commissioner of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee and the Natural Resources Conservation Service State Conservationist, to develop and review Comprehensive Nutrient Management Plans (CNMPs) for Concentrated Animal Feeding Operations in New York State. The certified (AEM) planner must be listed in the New York State AEM Planner Directory. This directory is designed to assist farm businesses with the selection of planners. The directory provides for a county-by-county listing showing where the planner is willing to provide services and their associated capacities related to the development of Comprehensive Nutrient Management Plans (CNMPs). In the back of the directory a complete listing of all conditionally certified and certified individuals has been alphabetically organized. Consult the following web site: www.nys-soilandwater.org for the AEM planner directory.
- K. *Conditionally Certified Agricultural Environmental Management (AEM) Planner*** means a planner who has completed the training and meets all requirements to be a Certified CNMP Planner except for having three CNMPs reviewed and accepted by a CNMP Review team. A Conditionally Certified CNMP Planner may not sign a Comprehensive Nutrient Management Plan Certification form (Appendix B) for a CAFO unless the CNMP for the CAFO has been reviewed and accepted by a CNMP Review Team. The conditionally certified (AEM) planner must be listed in the New York State AEM Planner Directory (Noted in Definition J).
- L. *Control Facility*** means any system used for the retention of wastes on the premises until their ultimate disposal. This includes the retention of manure, liquid waste, and runoff from the feedlot area.
- M. *Consistent Annual Progress*** means continued progress with the implementation of the site-specific Comprehensive Nutrient Management Plan (CNMP) such that work necessary to comply with the plan is balanced over the years given to come into compliance and not left until the last year before the compliance deadline. This is to allow the owner or operator to spread costs of implementation over a longer period of time to take advantage of funding opportunities and more favorable economic conditions.
- N. *Date of Coverage*** means the date the permittee is authorized to discharge in accordance with this permit.
- O. *Department*** means the New York State Department of Environmental Conservation.
- P. *Effluent Limitations Guidelines (ELG)*** means a regulation published by the Federal Administrator under Section 304(b) of Clean Water Act (CWA) that establishes national technology-based effluent requirements for a specific industrial category.
- Q. *Existing Facility*** means a CAFO, Large or Medium, permitted in accordance with SPDES General Permit Number GP-99-01 on June 30, 2004 or facilities that met the definition of CAFO as of July 1, 1999.
- R. *Expanded Facility, AFO to Medium CAFO*** means an AFO with less than required animals for a CAFO that, after July 1, 2004, constructs and operates an expansion physically contiguous to the existing AFO that, in conjunction with the existing AFO, meets the definition of a Medium CAFO as specified in this Section.
- S. *Expanded Facility, Medium CAFO to Large CAFO*** means a Medium CAFO or an AFO with the required animals for a Medium CAFO that, after July 1, 2004, constructs and operates an expansion physically contiguous to the existing Medium CAFO or AFO that, in conjunction with the existing Medium CAFO or AFO, meets the definition of a Large CAFO as specified in this Section.

- T. *Groundwaters*** means those waters defined as groundwaters in 6 NYCRR Part 750.
- U. *High-Risk Conditions*** means conditions as identified by the certified Agricultural Environmental Management (AEM) Planner that have the high likelihood of significant water quality impacts. The AEM planner may use the AEM program to determine high risk conditions.
- V. *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 is to reduce the groundwater flow contact which would result in the transfer of pollutant materials from Concentrated Animal Feeding Operation containment structures into surface waters.
- W. *Land Application Area*** means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.
- X. *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 structures and waters of the State.
- Y. *New Facilities*** means those operations that are defined as CAFOs as of July 1, 2004, but were not defined as CAFOs prior to that date.
- i. ***New Small CAFOs*** means those operations that are designated by the Department as CAFOs after July 1, 2004, but were not defined as CAFOs prior to that date.
- ii. ***New Medium CAFOs*** means those operations that meet the definition of Medium CAFO and are constructed and operated after July 1, 2004. New Medium CAFOs also include those AFOs that meet the animal threshold criteria of a Medium CAFO and, after July 1, 2004, are determined to have a discharge.
- iii. ***New Large CAFOs*** means those operations that are constructed and operated after July 1, 2004. Such operations include Large CAFOs that are constructed on an existing farm site(s) where that site was not defined as a CAFO(s) prior to July 1, 2004.
- Z. *New Discharger*** means those operations that become defined as CAFOs later than July, 1, 2004, but that are not defined as “new sources.”
- AA. *New Source*** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after February 12, 2003 and meets the following:
- i. Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition in 40 CFR 122.2; and
- ii. It is constructed at a site at which no other source is located; or
- iii. It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

- iv. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Director shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.

AB. *NRCS* means the Natural Resources Conservation Service of the United States Department of Agriculture.

AC. *Overflow* means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.

AD. *Production Area* means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas.

- i. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables.
- ii. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles.
- iii. The raw material storage area includes but is not limited to feed silos, silage bunkers, and bedding materials.
- iv. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated stormwater.
- v. Any egg-washing or egg-processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

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

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

Process-generated wastewater does not include precipitation that comes into contact with: pastures; cropfields; driveways; roof areas; or laneways where animals do not congregate; cropfields where manure

is applied in accordance with "NRCS CPS No. NY590", or vegetated filter areas that are designed and maintained in accordance with "NRCS CPS No. NY312".

- AF. *Proper Operation and Maintenance*** means proper operation and maintenance of storage structures that include activities such as periodic solids removal to maintain storage capacity, maintenance of berms and sidewalls, prompt repair of any deficiencies, and appropriate dewatering activities. Concentrated Animal Feeding Operations (CAFOs) must actively manage storage structures to maintain the appropriate capacity, including the capacity to contain the runoff and precipitation from the 25-year, 24-hour storm event.
- AG. *Retention Facility or Retention Structures*** means all collection ditches, conduits and swales for the collection of runoff and wastewater, and all basins, ponds and lagoons used to store wastes, wastewaters and manures.
- AH. *Saturated Zones*** means any extensive portion of the earth's crust that contains sufficient water to fill all interconnected voids or pore spaces.
- AI. *Severe Property Damage*** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- AJ. *Small CAFO*** means an AFO that is designated by the Department as a CAFO and is not a Medium or Large CAFO.
- AK. *Toxic Pollutants*** mean any pollutant listed as toxic under section 307(a)(1) of the Act.

II. FACILITIES ELIGIBLE TO BE COVERED BY THIS PERMIT:

- A. *CAFOs - Existing Facilities.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of existing facilities permitted in accordance with SPDES General Permit Number GP-99-01 on June 30, 2004 are covered under the SPDES General Permit GP-04-02 as of July 1, 2004. Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of existing facilities not permitted in accordance with General Permit GP-99-01 on June 30, 2004 are authorized, under the terms and conditions of this permit, upon Department acknowledgment of receipt of a complete *Notice of Intent* (NOI) form (Appendix A), to gain coverage under this General Permit.
- B. *CAFOs - Expanded Facilities, AFO to Medium CAFO.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of expanded facilities, AFO to Medium CAFO are eligible for coverage under the SPDES General Permit GP-04-02. Such eligible CAFOs are authorized, under the terms and conditions of this permit, 30 calendar days from the day of Department receipt of a complete *Notice of Intent* (NOI) form (Appendix A) to gain coverage under this SPDES General Permit.
- C. *CAFOs - Expanded Facilities, Medium CAFO to Large CAFO.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of expanded facilities, Medium CAFO to Large CAFO are eligible for coverage under the SPDES General Permit GP-04-02. Such eligible CAFOs are authorized, under the terms and conditions of this permit, 30 calendar days from the day of Department receipt of a complete *Notice of Intent* (NOI) form (Appendix A) and *Comprehensive Nutrient*

Management Plan (CNMP) Certification form (Appendix B) to gain coverage under this SPDES General Permit. The owner or the operator of an Expanded Facility, Medium CAFO to Large CAFO must submit the *Notice of Intent (NOI)* form (Appendix A) and the *Comprehensive Nutrient Management Plan (CNMP) Certification* form (Appendix B) at least 30 days prior to commencing operation of the Large CAFO.

- D. *New Small CAFOs.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of New Small CAFOs are eligible for coverage under the SPDES General Permit GP-04-02. Such eligible CAFOs are authorized, under the terms and conditions of this permit, 30 calendar days from the day of Department receipt of a complete *Notice of Intent (NOI)* form (Appendix A) to gain coverage under this SPDES General Permit.
- E. *New Medium CAFOs.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators New Medium CAFOs are eligible for coverage under the SPDES General Permit GP-04-02. Such eligible CAFOs are authorized, under the terms and conditions of this permit, 30 calendar days from the day of Department receipt of a complete *Notice of Intent (NOI)* form (Appendix A) to gain coverage under this SPDES General Permit.
- F. *New Large CAFOs.*** Unless excluded from coverage in accordance with *Section III* or *Section IV* of this permit, owners or operators of New Large CAFOs are eligible for coverage under the SPDES General Permit GP-04-02. Such eligible CAFOs are authorized, under the terms and conditions of this permit, 30 calendar days from the day of Department receipt of a complete *Notice of Intent (NOI)* form (Appendix A) and *Comprehensive Nutrient Management Plan (CNMP) Certification* form (Appendix B) to gain coverage under this SPDES General Permit. The owner or the operator of a New Large CAFO must submit the *Notice of Intent (NOI)* form (Appendix A) and the *Comprehensive Nutrient Management Plan (CNMP) Certification* form (Appendix B) at least 30 days prior to commencing operation of the CAFO.

III. EXCLUSIONS FROM COVERAGE UNDER THIS PERMIT:

- A.** The following CAFOs are not covered by this permit:
- i. CAFOs that the Department has determined, prior to the date of coverage, to be contributing to a violation of a water quality standard.
 - ii. CAFOs which have been notified by the Department to file for an individual SPDES permit.
 - iii. CAFOs that discharge all of their process wastewater to a publicly owned sanitary sewer system which discharges in accordance with an SPDES permit.
- B.** Shop drains are not authorized for discharge under the Concentrated Animal feeding Operation (CAFO) General Permit (GP-04-02).

IV. REQUIRING AN INDIVIDUAL SPDES PERMIT:

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

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

V. DUTY TO FILE A NOTICE OF INTENT / NOTICE OF TERMINATION / NOTICE OF TRANSFER:

- A.** *Expanded, or New Facilities* Owners or operators of facilities eligible to be covered by this permit shall submit a Notice of Intent to the Department in order to discharge into the surface waters of the state (address listed below). The *Notice of Intent Form* is specified in (Appendix A) of this permit. Notifications for a new or expanded facility must be made at least 30 days prior to commencing operation of the new facility or the facility expansion, respectively. The *Notice of Intent (NOI) form (Appendix A)* (or photocopy thereof) shall be signed by the owner, and a copy of the NOI and a copy of this permit shall be retained on site in accordance with *Section II.* of this permit.
- B.** *Notice of Termination* If the facility no longer meets the definition of a CAFO, the owner or operator may terminate coverage under this permit by submitting a complete *Notice of Termination (NOT) form (Appendix C)* to the Department.
- C.** *Transfer of Ownership* Coverage under this permit is transferable to a new owner or operator. The permittee and the new owner or operator must submit a complete *Notice of Transfer (NOT) form (Appendix A)*. When the ownership or operation is transferred, if the nature of the operation is changed, or the facility is expanded beyond the contingencies specified in the CNMP, the new permittee shall amend the CNMP in accordance with *Section VII.* of this permit.

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

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

VI. EFFLUENT LIMITATIONS:

- A.** *Effluent Limitations for CAFOs* The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a Concentrated Animal Feeding Operation in compliance with this permit, after application of the Best Available Technology Economically Achievable (BAT) or New Source Performance Standards (NSPS): ***There shall be no discharge of process waste water pollutants to the surface waters of the State except in accordance with Section VI.C. of this permit.***
- B.** *Effluent Limitations for Duck Farms* In accordance with 40 CFR Part 412.25, limitations established for concentrated duck-feeding operations which began operations after the establishment of New Source Performance Standards in 1974 are subject to the new source performance standard: ***There shall be no discharge of process waste water pollutants to surface waters of the State except as specified in Section VI.C. of this permit.*** All duck operations that meet the applicability requirements of the ELG must meet specific limitations established by 40 CFR 412.22.
- C.** *Releases in Excess of the 25-year, 24-hr Storm Event* Process waste water pollutants in the overflow may be discharged to surface waters of the State whenever rainfall events, either chronic or catastrophic, cause

an overflow of process waste water from a facility designed, constructed and operated to contain all process-generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from retention structures constructed and properly maintained to contain the 25-year, 24-hour-storm event if the discharge is the result of a rainfall event which exceeds the design capacity. Retention structures shall contain all process waste waters plus run-off from the 25-year, 24-hour storm event.

VII. COMPREHENSIVE NUTRIENT MANAGEMENT PLANS:

A. *Comprehensive Nutrient Management Plan (CNMP)* shall be developed for each CAFO facility covered by this permit. The CNMP shall be prepared in accordance with good agricultural practices and should include measures necessary to prevent pollutants in runoff. The plan shall describe and ensure the implementation of practices which are to be used to assure compliance with the limitations and conditions of this permit. The permittee and the CNMP shall identify a specific individual(s) at the facility who is responsible for the implementation, maintenance, and revision of the CNMP. The activities and responsibilities of the CNMP personnel should address all aspects of the facility's CNMP. Facilities identified in the CNMP shall be designed, constructed and operated in accordance with the “**NRCS Conservation Practice Standard No. NY312**” standards.

The CNMP shall include contingencies for possible expansion of the number of animals or changes that would limit the permittee’s ability to comply with the requirements of this permit.

B. *Certification of the CNMP* The CNMP must be developed or reviewed by a certified AEM Planner. The permittee *and* the certified AEM Planner shall certify in accordance with the ***Comprehensive Nutrient Management Plan (CNMP) Certification form (Appendix B)*** that the CNMP has been prepared in accordance with “**NRCS Conservation Practice Standard No. NY312.**” CNMP development and certification shall be in accordance with the following schedule:

- i. Existing Facilities by July 1, 2004 unless the NYSDEC letter of acknowledgment provided for a date after July 1, 2004.
- ii. Expanded Facilities, AFO to Medium CAFO. Within two years of Department receipt of the Notice of Intent (NOI).
- iii. Expanded Facilities, Medium CAFO to Large CAFO. At the time of Department receipt of Notice of Intent (NOI).
- iv. New Small CAFO. Within two years of Department receipt of the Notice of Intent (NOI).
- v. New Medium CAFO. Within two years of Department receipt of the Notice of Intent (NOI).
- vi. New Large CAFO. At the time of Department receipt of Notice of Intent (NOI).

C. *Comprehensive Nutrient Management Plan Completion Schedule* The CNMP shall contain a schedule for practices to be fully operational. The schedule shall assure consistent annual progress in completion of practices set forth within the CNMP.

- i. For existing Large CAFOs or expanded Facilities, Medium CAFO to Large CAFO, the completion schedule shall have all practices fully operational by **December 31, 2006**.
- ii. For new Large CAFOs, the CNMP shall have all practices fully operational prior to commencing operation.
- iii. For Medium CAFOs, the completion schedule shall have all *Non-Structural Practices* fully operational by **October 1, 2007**, unless the certified planner and the owner and operator determine that a structural practice that is not scheduled to be installed is required in order for the non-structural practice to be fully operational.
- iv. For Medium CAFOs, the completion schedule shall have responses to *High-Risk Conditions* fully operational as soon as possible, but no later than **October 1, 2008**.
- v. For Medium CAFOs, the completion schedule shall have all practices fully operational by **June 30, 2009**.
- vi. All CAFO owners and operators must, after it is developed, maintain a copy of the site-specific certified CNMP onsite, and records documenting the implementation of the best management practices and procedures identified in the CNMP. CAFO owners and operators must also maintain in their records a copy of the current SPDES General Permit.

D. *Duty to Amend the Comprehensive Nutrient Management Plan* The permittee shall amend the CNMP prior to any: change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants to the waters of the State; expanding operations beyond the contingencies specified in the CNMP; or, if the CNMP plan proves to be ineffective in achieving the general objectives of preventing pollutants in discharges from the CAFO.

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 plan within 90 days after such notification unless otherwise provided by the Department.

E. *Compliance with Comprehensive Nutrient Management Plan* The permittee shall comply with all provisions of the CNMP.

VIII. GENERIC BEST MANAGEMENT PRACTICES:

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

B. *Proper Operation and Maintenance Requirements* The facilities covered by this permit are required to document the attainment of the effluent limitations required in *Section VI* and all applicable Generic Best Management Practices (BMPs) used to comply with the effluent limitations in this permit. Such

documentation shall be included in the Comprehensive Nutrient Management Plan (CNMP) required by *Section VII.* of this permit.

C. *Generic Best Management Practices* The following Generic Best Management Practices (BMPs) shall be used by all CAFO owners/operators: *(Note that facility-specific BMPs may also be specified in the CNMP).*

- i. Control facilities must be designed, constructed, and operated to contain all 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. Waste-control facilities must be constructed, maintained and managed so as to retain all contaminated rainfall runoff from open lots and associated areas, process wastewater, and all other wastes which will enter or be stored in the retention structure(s).
- ii. 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.
- iii. Open lots and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures designed to carry peak flows expected at times when the 25-year, 24-hr. rainfall event occurs.
- iv. New facilities shall not be built in a surface water of the State, including wetlands.
- v. Animals confined in the animal feeding operation must be prevented from coming in contact with the surface waters of the State.
- vi. New and expanded wastewater retention facilities may not be located in the 100-year flood plain unless the facility is protected from inundation and damage that may occur during that flood event.
- vii. There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted facility. Wastewater retention facilities, holding pens or waste/wastewater disposal sites shall not be located closer to public or private water wells than the distances specified by State regulations or health codes or State-issued permits.
- viii. Solids, sludges, manure, or other pollutants 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.
- ix. The operator shall prevent the discharge of pesticide-contaminated waters into waters of the State. 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.
- x. 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.

- xi. Collection, storage, and disposal of liquid and solid waste should be managed in accordance with NRCS standards.
- xii. Appropriate measures necessary to prevent spills and to clean up spills of any toxic pollutant shall be taken. Where potential spills can occur, materials-handling procedures and storage shall be specified. Applicable regulations and procedures for cleaning up spills shall be identified and the necessary equipment to implement a clean-up shall be available to personnel.
- xiii. Transfer of Manure, Litter, and Process Wastewater to other Persons. In cases where CAFO-generated manure, litter, or process wastewater is sold or given away to any one recipient in amounts greater than 50 tons annually the permittee must comply with the following conditions:
 - a. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation.
 - b. Record the name and address of the recipient.
 - c. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater.
 - d. These records shall be retained on-site, for a period of five years, and shall be submitted to the Department upon request.

IX. MONITORING AND REPORTING:

- A. *Anticipated Non-Compliance*** The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Such advance notice shall be in accordance with 6 NYCRR 750-2.7(a).
- B. *Discharge Reporting*** If, for any reason, the permittee knows or has reason to believe there is a discharge of process wastewater or spill to the waters of the State that causes deposition, substantial visible contrast, or impacts to fish, or other violations of 6NYCRR Parts 700 to 705 , the permittee shall:
 - i. ***Twenty-four Hour Reporting and Five-day Reporting*** Notify the DEC Regional Office orally within 24 hours from the time that the permittee becomes aware of the discharge, and submit a written *CAFO Incident Report* (Appendix E) within 5 days of the discharge. Report all other instances of non-compliance with permit conditions not otherwise required to be reported under this permit in the *CAFO Annual Compliance Report* (Appendix D).
- 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 Annual Compliance Report (Appendix D).
- D. *Written Notification*** All discharge information and data will be made available to the Department upon request. If requested, signed copies of monitoring reports shall be submitted to the Department at the address specified in the request.
- E. *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.

- F. *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 and USEPA Regional Administrator, or his or her designee, for review upon request.
- G. *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. As required by the State Law, however, Notices of Intent (NOI), permits, and effluent data shall not be considered confidential and any claims of confidentiality for this information will be denied.
- H. *Duty to Provide Information*** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.
- I. *Other Information*** When the permittee becomes aware of a failure to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, the permittee shall promptly submit such 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.
- i. 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.
 - ii. For facilities owned by a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - iii. For facilities owned by a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
 - iv. All reports required by the permit and 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.
 - v. Any person signing a document under this section shall make the following certification:

" I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information,

the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- K. *On-site Rain Gauge*** The permittee shall install and maintain a standard rain gauge in the proximity of the confinement area. All precipitation events in excess of 0.3 inch shall be measured and recorded in the CNMP.
- L. *Annual Compliance Report*** The permittee shall submit an ***Annual Compliance Report form (Appendix D)*** to the Department. The report shall be for the calendar year and must be submitted by March 31st of each year. The ***Annual Compliance Report form*** for this permit is specified in **(Appendix D)** of this Permit.
- M. *All Large CAFOs*** All Large CAFOs must analyze manure at least once annual for nitrogen and phosphorus content.
- N. *In addition to compliance with the requirements of NY312, all Large Large Beef, Dairy, Veal Calf, Swine, and Poultry CAFOs shall comply with the following:***
- i. Perform weekly inspections of all storm water diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;
 - ii. Perform daily inspections of water lines, including drinking water or cooling water lines;
 - iii. Install depth markers in all surface and liquid impoundments (e.g. lagoons, ponds, tanks) to indicate the design volume and to clearly indicate the minimum capacity necessary to contain the 25-year, 24-hour rainfall event, including additional freeboard requirements;
 - iv. Correct any deficiencies found as a result of daily and weekly inspections as soon as possible;
 - v. Refrain from animal mortalities in any liquid manure or process wastewater treatment systems. Animal mortalities must be handled in such a way as to prevent discharge of pollutants to surface water, unless alternative technologies implemented under alternative performance standards are designed to handle mortalities.
- O. *Large Beef, Dairy, Veal Calf, Swine, and Poultry CAFOs*** All Large beef, dairy, veal calf, swine, or poultry CAFOs must keep records as follows:

Production Areas:

- i. Records of Inspections. Must inspect water lines, including drinking water or cooling water lines, once per day, and document those inspections;
- ii. Weekly records of the depth marker reading for manure and process wastewater in any open liquid storage structures;

- iii. Records documenting any actions taken to correct deficiencies. Deficiencies not corrected within thirty (30) days must be accompanied by an explanation of the factors preventing immediate correction;
- iv. Records of handling and disposing of dead animals;
- v. Records of the design of the manure and litter storage structures. Must include records of:
 - a. Volume of solids accumulation
 - b. Approximate number of day's worth of storage capacity
 - c. Design treatment volume
 - d. Total design volume
 - e. Calculations used to determine total design volume for storage structures; and
- vi. Records of overflows from the production areas, including the date and time and an estimate of the volume.

Land Application Areas:

- i. Weather conditions at time of application and for 24 hours prior to and following application; and
- ii. Date(s) of manure application equipment inspection.

P. *New Source Performance Standards for Swine, Poultry and Veal Calves* Notwithstanding other requirements within this permit for waste management and storage, there must be no discharge of manure, litter, process wastewater or other pollutants into waters of the State from the production area. Waste management and storage facilities must be designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event.

X. GENERAL PROVISIONS:

A. *Duty to Comply* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and the Clean Water Act and is grounds for enforcement action; for loss of authorization to discharge under this general permit; or for denial of a permit renewal application.

B. *Inspection and Entry* The permittee shall allow the Commissioner of the Department, the USEPA Regional Administrator, 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:

- i. 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;
- ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- iii. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and

- iv. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Environmental Conservation Law or Clean Water Act, any substances or parameters at any location.
- C. *Penalties for Violations of Permit Conditions*** State Law provides that any person who violates a permit condition implementing ECL Article 17, Title 8, is subject to a civil penalty not to exceed \$37,500 per day for each violation.
- D. *Continuation of the Expired General Permit*** This general permit continues in force and effect until a new general permit is issued.
- 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. *Duty to Mitigate*** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- G. *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.
- H. *Property Rights*** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining the assent of any other jurisdiction as required by law for the discharge authorized.
- I. *Severability*** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- J. *Consent Orders*** The issuance of this permit by the Department and the receipt thereof by the Applicant does not supersede, revoke or rescind an order or modification thereof on consent or determination by the Commissioner issued heretofore by the Department or any of the terms, conditions or requirements contained in such order or modification thereof unless specifically intended by said order.
- K. *Permit Actions*** If the permittee fails or refuses to comply with any requirement in this permit, such noncompliance shall constitute a violation of the permit for which the Commissioner may modify, suspend, or revoke the permit after notice and opportunity for hearing and take direct enforcement action pursuant to law. When, at any time during or prior to a period for compliance, the permittee announces or otherwise lets it be known, or the Commissioner on reasonable cause determines, that the permittee will not make the requisite efforts to achieve compliance with an interim or final requirement, the Commissioner may modify, suspend or revoke the permit and take direct enforcement action pursuant to law, without waiting for expiration of the period for compliance with such requirements.

- L. *Department Request for Information*** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.
- M. *Requirements for Other Permits*** This permit contains the legal requirements for compliance with the Act and Article 17 of the Environmental Conservation Law. Nothing in this permit relieves the permittee from a requirement to obtain other permits required by state, local, or federal laws provided that these permits are at least as stringent as this general permit.
- N. *Compliance With Water Quality Standards*** A determination has been made on the basis of a submitted Notice of Intent that compliance with the specified permit provisions will reasonably protect classified water use and assure compliance with applicable water quality standards. Satisfaction of permit provisions notwithstanding, if operation pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, or if the Department determines, on the basis of notice provided by the permittee and any related investigation, inspection or sampling, that a modification of the Comprehensive Nutrient Management Plan (CNMP) is necessary to prevent impairment of the best use of the waters or to assure maintenance of water quality standards or compliance with other provisions of ECL Article 17, or the Act, the Department may require the modification of the CNMP in accordance with Section VII of this permit. The Department may also require an individual SPDES permit in accordance with Section IV of this permit and may require abatement action to be taken by the permittee and may also prohibit the noticed act until the individual SPDES permit has been issued. The Department may also undertake any other compliance action authorized by 6 NYCRR Part 750.
- O. *Existing Permits*** Unless otherwise notified by the Department, coverage under this permit does not suspend, revoke, or modify the provisions of any other permit issued by the Department.