NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CWA SPDES GENERAL PERMIT

FOR

CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)

Permit No. GP-0-19-001

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

Issued Date: January 30, 2019
Effective Date: July 9, 2019

Expiration Date: July 23, 2022

John J. Ferguson
Chief Permit Administrator

1-28-19

Authorized Signature

Date

Address: NYSDEC
Division of Environmental Permits
625 Broadway, 4th Floor
Albany, NY 12233-1750

PREFACE

Pursuant to Section 402 of the Clean Water Act (CWA), discharges from Concentrated Animal Feeding Operations (CAFOs) are unlawful unless they are authorized by a National Pollutant Discharge Elimination System (NPDES) permit or by a state permit program. New York's State Pollutant Discharge Elimination System (SPDES) is a NPDES-approved program with permits issued in accordance with the Environmental Conservation Law (ECL).

This general permit is issued pursuant to Article 17, Titles 7 and 8 and Article 70 of the ECL. An *owner or operator* may apply for coverage under this general permit by submitting a Notice of Intent (NOI) and Nutrient Management Plan (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 Regional Office (see Appendix D). They are also available on the Departments website at:

http://www.dec.ny.gov

Any *owner or operator* of a CAFO that is deemed eligible for coverage under this general permit must obtain coverage prior to discharging from the CAFO facility. CAFOs, as defined in 40 CFR 122.23(b)(2) and Appendix A of this general permit, constitute point sources. ECL §17-0803 prohibits the discharge of a pollutant from a point source without a SPDES permit having been issued.

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION CWA SPDES GENERAL PERMIT
FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)

CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs) 1

I. PERMIT COVERAGE AND LIMITATIONS 1

A. Permit Coverage 1

B. Effluent Limitations for the Production Area 2

C. Effluent Limitations for the Land Application Area 3

D. Other Limitations 4

II. OBTAINING/TERMINATING/CHANGING PERMIT COVERAGE 5

A. Duty to File Notice of Intent and Nutrient Management Plan (NMP) 5

B. Duty to File Change of Operation Form 7

C. Duty to File Notice Of Termination 7

III. NUTRIENT MANAGEMENT PLANS 7

A. Minimum NMP Content 7

B. Additional NMP Content 23

C. Certification of the NMP 28

D. Duty to Amend and Submit the NMP 28

E. Compliance with NMP 30

IV. Additional Permit Conditions 30

A. Emergency Action Plan: 30

B. Contractor Certification Statement: 31

C. Planner On-Site NMP Review: 31

V. MONITORING, REPORTING & RETENTION of RECORDS 31

A. Anticipated Non-Compliance 32

B. Overflow and Discharge Reporting 32

C. All Other Non-Compliance 32

D. Annual Compliance Report 32

E. Additional Inspection and Recordkeeping for All CAFOs 33

F. Recordkeeping requirements for CAFOs using an Anaerobic Digester 34

G. Retention of Records 34

H. Electronic Recordkeeping 34
VI. STANDARD PERMIT CONDITIONS 34
A. Duty to Comply 34
B. Enforcement 35
C. Need to Halt or Reduce Activity Not a Defense 35
D. Duty to Provide Information 35
E. Incomplete Information 35
F. Other Information 35
G. Signatories and Certifications 36
H. Property Rights 36
I. Severability 37
J. Department Orders or Civil Decrees/Judgment 37
K. Requiring an Individual SPDES Permit 37
L. Proper Operation and Maintenance of all Facilities and Systems 37
M. Inspection and Entry 38
N. Permit Actions 38
O. Penalties for Falsification of Forms and Reports 38
P. Other Permits 39
Q. Compliance with Water Quality Standards 39
R. Existing Permits 39
S. Availability of Reports 39
T. Duty to Mitigate 40
U. Reopener Clause 40
Appendix A – DEFINITIONS 41
Appendix B – PERMIT REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AT CAFO FACILITIES 53
Appendix C – Nutrient Management Plan (NMP) Certification Statement 57
Appendix D – DEC REGIONAL OFFICE CONTACT INFORMATION 58

I. PERMIT COVERAGE AND LIMITATIONS

A. Permit Coverage

1. Eligibility under GP-0-19-001

   a) Unless excluded from coverage in accordance with Part I.A.4. of this general permit, the following CAFO owners/operators are eligible for coverage under this general permit if they fully implement all required practices identified in the Nutrient Management Plan (NMP) and are complying with the terms of this general permit:

      (1) Existing *Small*, *Medium*, or *Large CAFOs*

      (2) New *Small*, *Medium*, or *Large CAFOs*

      (3) Existing *Small* or *Medium CAFO* expanding to a *Medium* or *Large CAFO*;

2. Discharges of Non-Contact Cooling Water are authorized by this general permit if done in accordance with Part III.B.1 of this general permit.

3. Stormwater discharges from the construction of the structural agricultural BMPs identified in Appendix B Section B of this general permit are authorized by this general permit if done in accordance with the conditions outlined in that section.

4. Exclusions from Coverage Under this General Permit. The following are not covered under this general permit:

   a) CAFOs that the Department has determined, prior to date of coverage, to be causing or contributing to a water quality standards violation;

   b) CAFOs which have been notified by the Department to file for an individual SPDES permit;

   c) CAFOs that discharge all of their process wastewater to a treatment system that discharges in accordance with a SPDES permit (example: publicly owned sanitary sewer system);

B. Effluent Limitations for the Production Area

The following limitations establish the quantity or characteristics of pollutants which may be discharged from the production area in compliance with this general permit.

1. New Swine, Poultry or Veal Calf CAFO's:

   There shall be no discharge of process wastewater pollutants to the *surface waters of the State* from the production area. The NMP must include Wet Weather Standard Operating Procedures[1] that are determined by the planner for all BMPs necessary to meet this no discharge limitation.

2. All other CAFOs:

   Except as provided in 2.a) of this section, there shall be no discharge of process wastewater pollutants to the *surface waters of the State* from the production area.

   a) Whenever precipitation causes an overflow of process wastewater, pollutants in the overflow may be discharged to *surface waters of the State* provided:

[1] Wet Weather Standard Operating Procedures are those management strategies, which together with structural and non-structural BMPs, determined by the planner and employed by the facility to prevent discharges to *surface waters of the State* up to, and including, the 100-year, 24-hour storm event. These procedures must be developed following a site evaluation done in accordance with 40 CFR 412.46(a)(1). Overflows from practices other than waste storage structures, which are designed, operated and maintained to the 25-year, 24-hour storm, that do not result in a discharge to the *surface waters of the State*, are not considered to be violations of this general permit. When determining wet weather management strategies, the planner should consider the risks associated with the site layout and protection needed on an individual basis. These procedures could include enhanced operating and maintenance schedules, additional clean water diversion techniques during high flow events, increased containment/freeboard, extended weather forecast considerations, emergency spreading procedures, or re-routing of BMP overflow paths during high flow events. These procedures must include the "additional measures" contained in 40 CFR 412.37(a).

(1) The production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event;

(2) The production area is operated in accordance with all other additional measures and records required by this general permit.

C. Effluent Limitations for the Land Application Area

Agricultural Stormwater Exemption: Discharges from land application areas meeting the definition of an *Agricultural Stormwater Discharge,* as defined in Appendix A of this general permit, are exempt from the requirements of this general permit.

The following establish the effluent limitations applicable for the land application area in compliance with this general permit.

1. For CAFOs where manure, litter, or process wastewater is applied to land under the control of the CAFO owner/operator, as further described in Part III.A.1, the NMP required by Part III of this general permit must include all of the following requirements:

   a) Nutrient Transport Potential. Elements in paragraphs c-h below based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field.

   b) Form, source, amount, timing, and method of application. The form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.

   c) Determination of application rates. Application rates for manure, litter, or process wastewater must minimize phosphorus and nitrogen transport from the field to surface water.

   d) Site specific conservation practices. Appropriate site-specific conservation practices to be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to surface waters of the State.

e) Protocols to land apply manure, litter or process wastewater. Establish protocols to land apply manure, litter or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater.

f) Manure and soil sampling. Protocols for appropriate testing of manure, litter, process wastewater, and soil. Manure must be analyzed at least once annually for nitrogen and phosphorus content. Soil must be analyzed at least once every 3 years for phosphorus content as further described in Part III.A.2.g. The results of these analysis must be used in determining application rates for manure, litter, and process wastewater.

g) Inspection of land application equipment for leaks. Equipment used for land application of manure, litter or process wastewater must be inspected periodically for leaks.

h) Land application setback requirements. Manure, litter or process wastewater must be applied in accordance with the setbacks required by Part III.A.7.f of this general permit.

D. Other Limitations

1. Water Quality Standards: It is a violation of the ECL for any discharge authorized by this general permit to either cause or contribute to a violation of water quality standards as contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR). The Department expects that compliance with the conditions of this general permit will prevent discharges that cause or contribute to a violation of applicable water quality standards.

2. Construction Activity: This general permit does not relieve an owner or operator of a facility with coverage under this general permit of the requirement to also obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities, where necessary. 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.

3. Shop Drains are not authorized to discharge under this general permit.

4. Prohibition on Unauthorized Substances: The following are prohibited from being stored in waste storage areas or conveyed through waste storage transfer structures, or land applied: sanitary waste, unless authorized pursuant to Part 360; unused pesticides, unless handled in accordance with label instructions; and any other material that cannot be properly handled at the CAFO. See also the requirements of Part III.A.2.e below.

II. OBTAINING/TERMINATING/CHANGING PERMIT COVERAGE

All documents required in this Part shall be submitted to the following address:

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

A. Duty to File Notice of Intent and Nutrient Management Plan (NMP)

Every owner/operator seeking coverage under this general permit must submit a completed farm-specific Notice of Intent (NOI) and NMP to the Department. The NMP must contain all of the information required by Parts I.B-C and Part III of this general permit. Upon receipt, the Department will review the NOI and NMP to ensure that the NOI and NMP are complete, as defined by 40 CFR 122.21(i)(1) and 122.42(e), containing all the information required by Parts I.B-C and Part III. The Department may request that the CAFO owner/operator provide additional information if necessary to complete the NOI and NMP or to clarify, modify, or supplement previously submitted material. If the Department makes a preliminary determination that the NOI and NMP are complete, the Department's proposal to grant coverage under the permit, the NOI, the NMP, and the draft terms of the NMP to be incorporated into the permit will be made available for a thirty (30) day public notice and comment period. All comments and public hearing requests must be submitted during that time. The Department will respond to any significant comments received during the comment period and if necessary, require the CAFO owner/operator to revise the NMP and/or NOI in order to be granted permit coverage. If determined appropriate by the Department, CAFOs will be granted coverage under this general permit upon written notification by the Department. The Department shall notify the CAFO

owner or operator and inform the public that coverage has been authorized and of the terms of the nutrient management plan incorporated as terms and conditions of the permit applicable to the CAFO. In addition, the owner/operator that seeks coverage under this general permit must comply with the requirements below.

1. CWA Permitted CAFO: Facilities with effective coverage under the CWA SPDES General Permit for Concentrated Animal Feeding Operations (CAFOs) (GP-0-16-002) will maintain permit coverage under GP-0-16-002 until the effective date of this general permit. The owner/operator must ensure all BMPs identified in the NMP meet the requirements of this general permit and are fully implemented prior to submission of the complete NOI form and farm-specific NMP certified by the owner/operator and AEM certified planner in accordance with Appendix C of this general permit.
2. Existing Facilities Not Previously Covered by a CAFO SPDES Permit: Existing facilities not previously covered by a CAFO SPDES permit must have fully implemented all required practices identified in the NMP and be complying with the terms of this general permit prior to submitting the complete NOI form and farm-specific NMP certified by the owner/operator and AEM certified planner in accordance with Appendix C of this general permit.
3. New CAFO: Owners/Operators of new CAFOs that seek coverage under this general permit must submit a complete, NOI form and farm-specific NMP certified by the owner/operator and AEM certified planner in accordance with Appendix C of this general permit. These documents, as well as a certification that all required practices identified in the NMP have been fully implemented, must be submitted *at least* 60 calendar days prior to becoming *operational*.
4. ECL Permitted CAFO: Owners/Operators of CAFOs with ECL CAFO SPDES General Permit (GP-0-16-001) coverage that are eligible to be covered by this general permit, and seek coverage under this general permit, shall submit a complete NOI and farm-specific NMP, certified by the owner/operator and AEM certified planner in accordance with Appendix C of this general permit, to the Department. Once coverage commences under this general permit, coverage under the ECL CAFO SPDES General Permit will automatically be terminated.

B. Duty to File Change of Operation Form

1. Change in Ownership

   a) Coverage under this general permit is transferable to a new owner or operator. The current owner or operator, the new owner or operator, and an AEM certified planner must sign and submit a complete *Change of Operation* form within 30 calendar days of the transfer. Coverage under this general permit for the new owner/operator will begin 15 days after the completed Change of Operation form is received by the Department unless otherwise notified by the Department.

C. Duty to File Notice Of Termination

If the CAFO no longer meets the definition of a *Medium* or *Large CAFO* pursuant to Appendix A of this general permit, the owner or operator may terminate coverage under this general permit by submitting a complete *Notice of Termination* (NOT) form to the Department and complying with the following conditions:

   a) If the facility will cease operation, the owner/operator must close all *disposal systems* in accordance with 6 NYCRR 750-2.11 prior to submittal of the NOT form.

III. NUTRIENT MANAGEMENT PLANS

The owner/operator shall submit to the Department, and implement a site-specific NMP. The NMP must contain all of the information required by Parts I.B-C and Part III of this general permit. The NMP shall be developed by an AEM certified planner in accordance with the 9-Step planning process outlined in NRCS Planning Procedures Handbook, Edition 1, (11/2014), and shall specifically identify and describe the best management practices (BMPs) that will be implemented to assure compliance with the general permit. Additionally, the NMP shall be certified by both the owner/operator and the AEM certified planner in accordance with Appendix C of this general permit. Unless otherwise stated in this permit, the NMP must be developed in accordance with NRCS Standards identified in Part III.A.3 of this permit.

A. Minimum NMP Content

1. **Production Areas and Land Application Areas**: All areas under control of the CAFO where nutrient sources are produced, land applied or stored on or for use by the CAFO, shall be addressed in the NMP. In addition, any areas not controlled by the CAFO which receive nutrients from the CAFO, where the CAFO also land applies those nutrients and is in control of the application rate and timing, must also be included in the NMP.

2. **NMP Best Management Practices**
   The NMP must include BMPs necessary to meet the following requirements:

   a) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities. All wastewater and manure storage structures shall at a minimum be designed, constructed, operated, and maintained in accordance with NRCS NY 313. Storage capacity must be sufficient to meet requirements specified in Part I.B of this general permit and also must be sufficient to allow the CAFO to comply with the land application specified in the NMP.

   b) Ensure proper management of mortalities to ensure they are not disposed of in a liquid manure, stormwater or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities. Mortalities must be handled in accordance with NRCS NY 316 or the 2014 Cornell Waste Management Institute recommendations “Composting Animal Mortalities”.

   c) Ensure that clean water is diverted, as appropriate, from the production area.

   d) Prevent direct contact of confined animals with surface waters of the State.

   e) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants.

f) Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices consistent with Part III.A.7.f below, to control runoff of pollutants to surface waters of the State and specifically, to minimize the runoff of nitrogen and phosphorus.

g) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil. All CAFOs must analyze each individual land-applied waste source (manure, litter, food processing waste, digestate, process wastewater, etc.) at least once annually for total nitrogen, ammonium, total phosphorus, total potassium, chloride (if food processing waste is included in waste), and percent solids in accordance with NRCS NY 590 unless more frequent sampling is deemed appropriate by the AEM certified planner. In addition, soil tests must be taken at least every 3 years, not to extend beyond the spring of the fourth cop year, in accordance with NRCS NY 590.

h) Establish protocols to land apply, manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater.

   The owner/operator's site-specific NMP shall document the calculation of land application rates of manure, litter, or process wastewater. NRCS NY 590 shall be used for calculating those rates. The rate calculation shall address the form, source, amount, timing, and method of application on each field to achieve realistic production goals while minimizing nitrogen and phosphorus movement to surface waters. The rate calculation and timing of land application shall be based on the results of the field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters using NRCS NY 590.

i) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in a-h above, including the records required by Parts V.E-F.

j) Land application rates must be expressed in NMPs consistent with one of the two approaches described below which will be used by the Department to establish site-specific permit terms.

(1) Linear Approach

(a) The Linear Approach expresses rates of application as pounds of nitrogen and phosphorus. Owners/Operators selecting the linear approach to address rates of application must include in the NMP submitted to the Department the following information for each crop, field, and year covered by the NMP:

(i) The maximum application rate (pounds/acre/year of nitrogen and phosphorus) from manure, litter, and process wastewater;

(ii) The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. The potential for nitrogen and phosphorus transport shall be determined using NRCS NY 590. The CAFO must specify any conservation practices used in calculating the risk rating;

(iii) The crops to be planted or any other uses of a field such as pasture or fallow fields;

(iv) The realistic annual yield goal for each crop or use identified for each field;

(v) The nitrogen and phosphorus recommendations, including the source of the recommendation, for each crop or use identified for each field;

(vi) Credits for all residual nitrogen in each field that will be plant-available;

(vii) Consideration of multi-year phosphorus application in accordance with the criteria outlined in NRCS NY 590.

(viii) Accounting for all other additions of plant available nitrogen and phosphorus (e.g., from sources other than manure, litter, or process wastewater or credits for residual nitrogen);

(ix) The form and source of manure, litter, and process wastewater to be land-applied;

(x) The timing and method of land application. The NMP also must include storage capacities needed to ensure adequate storage that accommodates the timing indicated;

(xi) The methodology that will be used to account for the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied; and

(xii) Any other factors necessary to determine the maximum application rate identified.

(b) CAFOs using the Linear Approach must calculate the maximum amount of manure, litter, and process wastewater to be land applied at least once each year using the results of the most recent representative manure, litter, and process wastewater tests of nitrogen and phosphorus. Such representative tests must be taken within 12 months prior to the date of land application.

(2) Narrative Rate Approach

(a) The Narrative Rate Approach expresses a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, process wastewater to be land applied. Owners/Operators selecting the narrative rate approach to address rates of application must include in the NMP submitted to the Department the following information for each crop, field, and year covered by the NMP:

(i) The maximum amounts of nitrogen and phosphorus that will be derived from all sources of nutrients (pounds/acre for each crop and field);

(ii) The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. The potential for nitrogen and phosphorus transport shall be determined using NRCS NY 590. The CAFO must specify any conservation practices used in calculating the risk rating;

(iii) The crops to be planted in each field or any other uses of a field such as pasture or fallow fields, including alternative crops if applicable. Any alternative crops included in the NMP must be listed by field, in addition to the crops identified in the planned crop rotation for that field;

(iv) The realistic annual yield goal for each crop or use identified for each field for each year, including any alternative crops identified;

(v) The nitrogen and phosphorus recommendations, including the source of the recommendation, for each crop or use identified for each field, including any alternative crops identified;

(vi) The methodology (including formulas, sources of data, protocols for making determination, etc.) and actual data that will be used to account for: (1) the results of soil tests required by Part III.A.2.g, (2) credits for all nitrogen in the field that will be plant-available, (3) the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied, (4) consideration of multi-year phosphorus application in accordance with the criteria outlined in NRCS NY 590, (5) accounting for all other additions of plant available nitrogen and phosphorus to the field (i.e., from sources other than manure, litter, or process wastewater or credits for residual nitrogen), (6) the form and source of manure, litter, and process wastewater; (7) the timing and method of land application, and (8) volatilization of nitrogen and mineralization of organic nitrogen.

(vii) Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach.

(b) NMPs using the Narrative Rate Approach must also include the following projections, which will not be used by the Department in establishing site specific permit terms:

(i) Planned crop rotations for each field for the period of permit coverage;

(ii) Projected amount of manure, litter, or process wastewater to be applied;

(iii) Projected credits for all nitrogen in the field that will be plant-available;

(iv) Consideration of multi-year phosphorus application;

(v) Accounting for other additions of plant-available nitrogen and phosphorus to the field; and

(vi) The predicted form, source, and method of application of manure, litter, and process wastewater for each crop.

(c) CAFOs that use the Narrative Rate Approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology specified in the NMP pursuant to Part III.A.2.j.(2).(a) before land applying manure, litter, and process wastewater. Such calculations must rely on the following data:

(i) A field-specific determination of soil levels of nitrogen and phosphorus. For nitrogen, the determination must include a concurrent determination of nitrogen that will be plant available. For phosphorus, the determination must include the results of the most recent soil test conducted as required in Part III.A.2.g.

(ii) The results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months prior to the date of land application, as required in Part III.A.2.g., in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

3. **NMP Standards**: Practices identified in the NMP shall be designed, constructed, operated and maintained in accordance with all applicable New York State NRCS Standards listed below <u>or</u> have a certification that an existing practice provides equivalent protection to those Standards in accordance with (b)-(e) below.

   a) At a minimum, the following NRCS Standards shall be implemented when applicable and as determined by an AEM certified planner. Further, if a planner deems an additional NRCS Standard practice necessary to meet compliance with one of these minimum NRCS Standards, the additional NRCS Standard is required to be identified in the NMP and implemented. Implementation of these standards is required to meet the effluent limitations and BMPs outlined in Part I.B-C and Part III. of this general permit:

(1)	Nutrient Management – NY 590	01/2013
(2)	Waste Storage Facility – NY 313	10/2014
(3)	Anaerobic Digester – NY 366	05/2010
(4)	Waste Transfer Standard – NY 634	10/2015

(5)	Vegetated Treatment Areas – NY 635	10/2016
(6)	Heavy Use Area Protection – NY 561	10/2016
(7)	Waste Facility Closure – NY 360	10/2013
(8)	Karst Sinkhole Treatment – NY 527	10/2016
(9)	Animal Mortality – NY 316[2]	04/2016
(10)	Composting Facility – NY 317	05/2011

b) Existing Open Waste Storage Structures, that do not have a design report or as-builts containing soil sample test results and signed by a *qualified professional;* or that do not have an existing certification from a *qualified professional* documenting equivalence to one of the 08/2006 through 10/2014 versions of NY 313 NRCS Standard; must be evaluated[3] by a Professional Engineer licensed to practice in New York State (PE), in accordance with the "AEM Tool for the Evaluation of Undesigned Waste Storage Facilities". Any deficiencies and required improvements identified must be implemented in accordance with the NMP implementation schedule. Following implementation of the required improvements, the PE, shall certify, in writing, that the required improvements were completed to meet the NY 313 NRCS 10/2014 Standard. Documentation of the evaluation, required improvements and certification shall be maintained on-site by the CAFO.

[2] If the AEM certified planner deems appropriate, the 2014 Cornell Waste Management Institute recommendations "Composting Animal Mortalities" may be used in lieu of the Animal Mortality NY 316 Standard. Please refer to Part III.B.12. of this general permit.

[3] The purpose of this evaluation is to detect observable errors and omissions to prevent critical component failures and direct impacts to surface waters of the State; it is not to redesign from scratch, prepare as-built drawings, nor does it necessitate the need to excavate components, unless evaluation deems excavation necessary.

c) Existing Vegetated Treatment Areas (VTAs), that have not been designed or installed under the direction of a *qualified professional* per one of the 04/2009 through 10/2016 versions of the NY 635 NRCS Standard, must be evaluated[4] by a PE in accordance with the "AEM Tool for the Evaluation of Existing Vegetated Treatment Areas". Any deficiencies and required improvements identified must be implemented in accordance with the NMP implementation schedule. Following implementation of the required improvements, the PE shall certify, in writing, that the required improvements were completed to meet the NY 635 10/2016 NRCS Standard. Documentation of the evaluation, required improvements and certification shall be maintained on-site by the CAFO.

d) Existing Permanent Waste Transfer Systems

The following existing permanent waste transfer systems that do not have as-builts signed by a *qualified professional*; or that do not have an existing certification from a *qualified professional* documenting equivalence to one of the 03/2006 through 10/2015 versions of the NY 634 NRCS Standard; must be evaluated[4] by a PE in accordance with the "AEM Guideline for the Evaluation of Undesigned Manure and Wastewater Transfer Systems":

(1) pressurized systems extending beyond the production area;

(2) gravity systems (open or closed) carrying waste within 100 feet of a surface waterbody.

Any deficiencies and required improvements identified must be implemented in accordance with the NMP implementation schedule. Following implementation of the required improvements, the PE shall certify, in writing, that the required improvements were completed to meet the NY 634 NRCS 10/2015 Standard. Documentation of the evaluation, required improvements and certification shall be maintained on-site by the CAFO.

e) If the AEM certified planner and/or the *qualified professional* for the CAFO, utilizing guidance from the Department, NRCS standards and AEM guidelines, deems any 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 CAFO shall:

(1) Document this consideration in the NMP and in that year's Annual Compliance Report (including any differences between the practices actually installed and the relevant NRCS standards, if any);

(2) Document any non-structural changes required in the NRCS Standard in the NMP;

(3) Implement those non-structural changes immediately; and

(4) Continue to monitor the existing BMP for conditions that require a modification.

4. **Implementation Schedule**: All CAFO owners/operators must include in the NMP an implementation schedule that follows the specified timeframes provided below and must report any BMP construction/corrections in the NMP Completion Schedule section of the Annual Compliance Report. The NMP must also prescribe a management system to provide equivalent water quality protection during BMP construction, repair and transition periods.

a) For any CAFOs expanding operations:

(1) All non-structural and structural BMPs must be fully implemented prior to the expansion.

b) For any new CAFOs:

(1) All non-structural and structural BMPs must be fully implemented prior to the CAFO becoming *operational*. The owner/operator must submit to the Department a certification that all required BMPs identified in the NMP have been fully implemented at least 60 calendar days prior to the CAFO becoming operational.

c) For any newly acquired AFO or CAFO operations, acquired by an existing, compliant, permitted CAFO who meet *Common Ownership/Common Facility* definition in Appendix A, and who plan to combine operations:

(1) within 30 days of acquisition, an AEM certified planner must visit and evaluate the site of the acquired operation; work with the owner/operator of the permitted CAFO to identify any discharges; create an implementation schedule for completion of structural BMPs (if necessary) in accordance with (2) below; and the owner/operator must implement equivalent protections to the required structural BMPs and submit a Change of Operation form and revised/updated NMP, with proposed implementation schedule to the Department for approval. Note that any acquired land is not permitted to receive manure, litter, or process wastewater until all necessary approvals are obtained in accordance with Part III.D of this permit.;

(2) all required structural BMPs must be implemented as soon as possible, but not to extend beyond 24 months of the acquisition. This implementation schedule must be included in the NMP submitted per (1) above. Upon completion of the identified structural BMPs, the owner/operator must submit to the Department a certification that all required BMPs identified in the NMP have been fully implemented.

d) For existing Waste Storage Systems, Vegetated Treatment Areas (VTAs), and Waste Transfer Systems:

(1) PE evaluations and certifications necessary to comply with Part III.A.3 of this general permit are required to be completed within 12 months of filing the NOI.

e) The implementation schedule may also include BMP enhancements being implemented by the CAFO beyond the requirements of this general permit. Such BMP enhancements are intended to address future operational changes on the farm and should not include BMPs necessary to address an existing compliance requirement of this permit.

5. **Contact Person**: Within the NMP, the owner/operator shall identify a specific individual(s) at the CAFO who is responsible for the implementation, maintenance, and revision of the NMP in conjunction with an AEM certified planner. The activities and responsibilities of the identified individual(s) shall address all aspects of the CAFO's NMP. Any modified contact information must be provided to the Department Regional Water Engineer (Appendix D) immediately.

6. **Operation and Maintenance of BMPs**: The NMP shall include routine, site-specific operation and maintenance requirements for BMPs, including any applicable BMPs contained in Part III.B, of this general permit. Failure to properly operate and maintain a BMP in accordance with the requirements of the applicable NRCS standard and NMP is a violation of this general permit and must be corrected immediately.

7. **Waste Application Requirements.** Applications of manure, litter, food processing waste, digestate, and process wastewater shall be planned in the NMP according to the NRCS NY590 Standard. Farm personnel shall manage application rates and timing so as to prevent runoff from leaving crop fields during any application event. In addition, all waste applications must be made in accordance with the following requirements:

a) Prohibited Conditions.

(1) Saturated Conditions.

(a) Applications may not be made on saturated soils (either fluid-saturated or frozen-saturated soil conditions) and

(b) Applications may not be made at a rate that creates or causes the soil to become fully saturated at the time of that application.

(2) The NMP must describe the current waste storage capacity of the farm and how it shall be managed in order to prevent applications during the prohibited conditions described above.

b) **Application Rates.** The planned land application rates in the NMP, for both single application rates and annual totals, as described below, must not be exceeded. During emergency situations, where applying more than the single application rate is necessary to prevent, or respond to, an overflow or discharge from a waste storage structure, the owner/operator must orally notify the Department Regional Office (Appendix D) within 24 hours and submit a written CAFO Incident Report within 5 days from the date of application.

(1) Single manure, food processing waste, and digestate application rates must be specifically identified on a per field basis in the NMP and shall not exceed 20,000 gallons per acre cumulatively within any 7-day period. Total annual application rates per field must also be identified in the NMP if multiple applications are planned for the crop year.

(2) Single process wastewater application rates must be specifically identified on a per field basis in the NMP and shall not exceed 27,000 gallons per acre within any 7-day period. Total annual rates per field must also be identified in the NMP if multiple applications are planned for the crop year.

c) **Winter Weather Applications**. Applications of manure, litter, food processing waste, digestate, and process wastewater during periods that meet *winter spreading conditions* as defined in Appendix A, must adhere to the following conditions:

(1) Must utilize the 2015 Cornell Guide, “Revised winter and wet weather manure spreading guidelines to reduce water contamination risk”, as well as the NRCS NY590 Standard, to develop specific winter application procedures to be included in the NMP; and

(2) NMP must identify specific low-risk fields to be used for winter weather applications.

d) **Wet Weather Applications**. If applications of manure, litter, food processing waste, digestate, or process wastewater during wet weather, or forecasted wet weather are necessary, recommendations contained in the 2015 Cornell Guide, “Revised winter and wet weather manure spreading guidelines to reduce water contamination risk”, should be followed. In no case can applications be made on saturated soils.

e) **Protection of Groundwater and Artificial Drainage Flows**. Applications of manure, litter, food processing waste, digestate, and process wastewater in areas with at-risk groundwater must be made in accordance with the 2011 Cornell recommendations in “Manure Management Guidelines for Limestone Bedrock/Karst Areas of Genesee County, New York: Practices for Risk Reduction” if application is within the Genesee County karst boundary lines <u>or</u> in accordance with the 2004 Cornell recommendations in “Manure and Groundwater: The Case for Protective Measures and Supporting Guidelines” for the remainder of NY. Specifically, the NMP must:

(1) Identify and apply manure application restrictions in the vicinity of:

(a) Public & Private water wells;

(b) Carbonate shallow bedrock;

(c) Thin soils over any shallow bedrock;

(d) Any soils with rapid drainage;

(e) Karst features including sinkholes, swallets, springs, closed drainage areas, areas that fill & drain rapidly, or areas of disappearing streams or runoff; and/or

(f) Areas with historical well contamination problems.

(2) Application restrictions must include injection and/or incorporation requirements, where appropriate, and be based on the following factors:

(a) Time of year;

(b) Rainfall forecast;

(c) Expected nutrient demands;

(d) Runoff potential; and

(e) Uniformity of spreading.

f) **Field Setback Requirements.** Manure, litter, food processing waste, digestate, and process wastewater may never be applied closer than 100 feet from any wellhead. Additionally, the same may not be applied closer than 100 feet from:

(1) the top of the bank of any down-gradient *surface waters of the State*, including both perennial and intermittent streams, when the application area is up-gradient to the top of the bank;

(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, or other down-gradient direct conduits to surface or ground waters;

unless the CAFO exercises one of these options:

(a) **Vegetated Buffer**. Substitute the 100 foot-setback described above with a 35-foot wide vegetated buffer to down-gradient waters; or

(b) **Alternative Practice**. Substitute the 100 foot-setback described above with a 15-foot wide setback to down-gradient waters as described 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 NMP.

g) **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. Specifically, the NMP must ensure the following:

(1) Food Processing Wastes Containing Salt. The land application rates of food processing waste containing salt shall not exceed a chloride loading of 170 lbs. per acre per year.

(2) 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.

B. Additional NMP Content

1. Non-Contact Cooling Water (NCCW) Systems.

a) Non-trout waters. Where the source for these systems is well water, this general permit authorizes a NCCW discharge of up to 100,000 gallons per day to *surface waters of the State* classified as nontrout waters, given the following conditions are met:

(1) NCCW is reused on-site to the maximum extent practicable (ie. used for drinking water, washdown, etc.) and reuse is described in NMP;

(2) discharge contains no chemical additives or other pollutants which may cause or contribute to a Water Quality violation;

(3) discharge does not exceed 70° F;

(4) discharge does not result in a nuisance such as, erosion, staining, icing, etc. and does not have a sheen at discharge point;

2. 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, unless otherwise indicated elsewhere in this general permit. Calculations may also include allowances for surface retention, infiltration, and other site- specific factors.

3. Waste Storage Structures. All CAFOs utilizing waste storage structures must adhere to the following conditions:

   a) The maximum operating level for open waste storage structures, earthen and fabricated, shall be indicated by a depth marker and 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 minimum design storage volume includes the volume needed for manure, litter, food processing waste, digestate, and process wastewater storage according to the NMP in accordance with the NRCS NY313 Standard Design criteria.

   b) Waste storage structures that overtop must be re-evaluated by a PE in accordance with Part III.A.4.b of this general permit within 30 days of overtopping, the re-evaluation documented in the NMP, and the NMP adjusted if necessary. In addition, the owner/operator must report any instances of overtopping by completing a CAFO Incident Report and submitting it to the DEC Regional Office.

   c) Non-farm generated organics, such as food processing waste and digested Fats, Oils, and Greases (FOG), may not exceed 50% of the annual volume of waste placed in the manure storage facility (including anaerobic digesters) covered by this general permit. Manure storage facilities accepting greater than 50% non-farm generated organics or *any* sanitary waste are subject to the permitting or registration requirements under 6 NYCRR Part 360.

4. Waste transfer systems (temporary and pressurized permanent) extending beyond the production area (i.e., to a satellite storage, to fields for application, etc.) and that have a mechanical component, shall not be left unattended while actively transferring material. In addition, all valves/shut offs shall be checked in accordance with the *qualified professional's* recommendation or the manufacturers recommendations, but not less than annually. The date of this check shall be logged and maintained on site. If any valve/shut off mechanism is not properly functioning, it shall be repaired, replaced, or isolated within 7 days of discovery.

5. 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 NMP. This monitoring strategy must be site-specific and, at a minimum, include documented on-going inspections of the feed storage area to verify low-flow leachate is not leaving the pad. Furthermore, high-flow leachate must be treated by a VTA or a system which provides equivalent protection to a VTA.

6. Barnyards[4] 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. In addition, barnyard runoff must be managed in accordance with applicable NRCS standards and to prevent overflow or discharge of solids. If an AEM certified planner deems solids collection unnecessary, a detailed description of the monitoring strategy necessary for this determination must be included in the NMP. This monitoring strategy must be site-specific and, at a minimum, include documented on-going inspections of the barnyard perimeter to verify solids are not contained in runoff. Furthermore, high-flow runoff must be treated by a VTA or a system which provides equivalent protection to a VTA.

[4] A barnyard is a specific type of Heavy Use Area where livestock are concentrated and contained within its borders and there is no forage growth. Barnyards do not include laneways used solely for the movement of livestock to and from facilities or pasture paddocks.

7. 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. Any such changes shall be reflected in an amendment to the NMP made pursuant to Part III.D below.

8. New facilities and new structures for 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/treatment structures, with the exception of hoppers and small tanks used to transport waste from an existing facility to a permanent waste storage structure, must maintain a minimum natural flow path of at least 100 feet to any NYS classified stream or protected waterbody as determined by 6 NYCRR Parts 608 and 800-941, or Title 5 of Article 15 of the NYS ECL as seen on the NYS Environmental Resource Mapper.

9. 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.

10. There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted CAFO. 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, State health codes or State-issued permits.

11. Pesticides: 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. 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.

12. Mortalities: Dead animals shall be properly disposed of within three (3) days. The disposal of animal mortalities in stormwater or any liquid manure or process wastewater treatment systems is prohibited. Composting of dead animals must be conducted in accordance with the 2014 Cornell Waste Management Institute recommendations "Composting Animal Mortalities" or the NY 316 NRCS Standard.

13. Transfer of manure, litter, food processing waste, digestate, and process wastewater to other persons: Where CAFO generated manure, litter, food processing waste, digestate, and process wastewater is *exported*, sold or given away, the owner/operator must comply with the following conditions:

    a) Maintain records showing the date and amount of manure, litter, food processing waste, digestate, and process wastewater that leave 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, food processing waste, digestate, and process wastewater as exported; and
    d) Retain these records on-site, for a period of five years, and submit these records to the Department upon request.
    e) Additionally, any applications not meeting the definition of *export*, as defined in Appendix A, must be made in accordance with the NMP of the CAFO.

C. Certification of the NMP

The NMP must be developed or reviewed by an AEM certified planner. The owner/operator *and* the AEM certified planner shall certify in accordance with the NMP Certification included in Appendix C of this general permit, that the NMP has been prepared in accordance with “all applicable NRCS Conservation Practice Standards" and this general permit.

D. Duty to Amend and Submit the NMP

The owner/operator shall amend the NMP when there is any change in the operation of the CAFO or implementation of the NMP. All changes must only be done with concurrence from an AEM certified planner. All changes must also be submitted to the Department for review and approval prior to implementation, with the exception of annual calculations required by Part III.A.2.j.(1)(b) and Part III.A.2.j.(2)(c). All changes in the operation of the CAFO or implementation of the NMP shall be recorded in the NMP and must be done, at a minimum, in accordance with the following conditions:

1. If the NMP proves to be ineffective in preventing pollutants in discharges from the CAFO, the owner/operator shall make changes to the NMP to address the problem and shall submit the amended NMP to the Department for approval in accordance with (3) below.
2. If the Department provides written notice to the owner/operator that the NMP does not meet a provision in this general permit, the owner/operator shall immediately make the changes to the NMP described in the written notice and submit the amended NMP to the Department for approval in accordance with (3) below.
3. Changes to the NMP.
   When changes to a NMP are submitted to the Department, the Department will review the revised NMP to ensure that it meets the requirements of Parts I.B-C. and Part III.

   a) If the Department determines that the changes to the NMP do not necessitate revision to the terms of the NMP, the Department will notify the owner/operator and upon such notification the CAFO may implement the revised NMP.

b) If the Department determines that the changes to the NMP necessitate revision to the terms of the NMP for the CAFO incorporated into this general permit, the Department must determine whether such changes are substantial. Substantial changes to the terms of the NMP incorporated as terms and conditions of this permit include, but are not limited to:

(1) Addition of new land application areas not previously included in the CAFO's NMP, except that if the added land application area is covered by the terms of a NMP incorporated into an existing permit and the new owner/operator applies manure, litter, or process wastewater to the newly added land in accordance with the existing field-specific permit terms, such addition of new land would be not be a substantial change;

(2) For NMPs using the Linear Approach, any changes to the field-specific maximum annual rates of land application;

(3) For NMPs using the Narrative Rate Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop;

(4) Addition of any crop or other uses not included in the terms of the CAFO's NMP and (for Linear approach only) corresponding field-specific rates of application, and

(5) Changes to site-specific components of the CAFO's NMP, where such changes are likely to increase the risk of nitrogen and phosphorus transport to surface waters of the State.

c) If the Department determines that the changes to the terms of the NMP are not substantial, the Department will include the revised NMP in the permit record, revise the terms of the permit based on the revised NMP, and notify the owner/operator and the public of any changes to the terms of the permit based on revisions to the NMP.

d) If the Department determines that the changes to the terms of the NMP are substantial, the Department will notify the public, make the proposed changes and the information submitted by the CAFO owner/operator available for a public notice and comment period of 30 days. All comments and requests for hearing must be made during that time. After the comment period closes, the Department will respond to all significant comments received during the comment period. The Department may require the CAFO owner/operator to further revise the NMP, if necessary. Once the Department incorporates the revised terms of the NMP into the permit, the Department will notify the CAFO owner/operator and the public of the revised terms and conditions of the permit.

E. Compliance with NMP

1. The owner/operator shall comply with all provisions of the NMP.
2. All CAFO owners/operators must maintain on site a copy of the site-specific certified NMP and records documenting the implementation of the BMPs and procedures identified in the NMP.

IV. Additional Permit Conditions

A. Emergency Action Plan:

Every CAFO must have an emergency response plan for manure, process wastewater and pesticide spillage, fuel handling and storage, and catastrophic emergency situations. This plan shall include the following components:

a) Locations of equipment that can be used to assist in clean-up efforts;

b) A map identifying the water resources which may be impacted;

c) A list/map of areas to receive additional manure in an emergency; and

d) Contact information for emergency services. The contact information must be posted prominently in a central location, in all languages necessary to facilitate readability by all staff. This information must also be included in the plan itself.

B. Contractor Certification Statement:

The owner/operator shall have each contracted professional applying any manure, process wastewater, and/or digestate, sign a copy of the following certification statement prior to the initial application of nutrients on the date of service:

"I hereby certify under penalty of law that I understand and agree to comply with the terms and conditions of the Nutrient Management Plan (NMP) for the particular area of contracted work as communicated to me by the owner/operator or their designated representative. I also understand that the owner/operator must comply with the terms and conditions of this general permit and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I am aware that there are significant penalties for submitting false information that I do not believe to be true, including the possibility of fines and imprisonment for knowing violations."

C. Planner On-Site NMP Review:

1. The AEM certified planner, or an associate working under the direct supervision of the AEM certified planner, must conduct an annual on-site review of the NMP with the CAFO manure applicator staff. At a minimum, this review must include a planner-led discussion of farm-specific high-risk field features and management, including; concentrated flow paths, surface water, wellheads, subsurface drainage systems, and karst features (where present).
2. At least once per permit term, the AEM certified planner must conduct a planner-led presentation and discussion of Cornell's Manure Applicator webinar with manure applicator staff, unless at least two (2) of these staff from Large CAFOs and one (1) from Medium CAFOs has attended a Department-endorsed manure applicator training within the general permit term.
3. The owner/operator must maintain a record of the review on-site. The record must include the date, time, and signatures of all staff who participated and, where applicable, Department-endorsed manure applicator training certifications.

V. MONITORING, REPORTING & RETENTION of RECORDS

A. Anticipated Non-Compliance

The owner/operator shall give at least 45 days prior advanced notice to the appropriate Department Regional Water Engineer (Appendix D) of any of the following events, when such events are, very likely or certain to result in non-compliance with any general permit requirements and when the owner/operator knows or has reason to know about such anticipated non-compliance 60 or more days before it occurs:

1. any changes in the permitted CAFO or activity that is required to be included in the NMP that would occur as part of a construction project, or;
2. any changes to part of the owner/operator's required routine operation and maintenance program in the NMP.

B. Overflow and Discharge Reporting

If, for any reason, the owner/operator knows or has reason to believe there is a discharge of process wastewater to the *waters of the State* that causes an impact to a drinking supply, deposition, substantial visible contrast to waters of the State, impacts to fish, or other violations of 6NYCRR Parts 700 to 705, <u>or</u> there is an overflow of manure, litter, food processing waste, digestate, and process wastewater from a waste storage structure, or any of the conditions outlined in Part III.B.1 of this general permit are not met, the owner/operator shall:

1. ***Twenty-four Hour Reporting***: Notify the Department Regional Office (Appendix D) orally within 24 hours from the time that the owner/operator becomes aware of the discharge or overflow;
2. ***Five-day Reporting***: Submit a written CAFO Incident Report to the Department Regional Office (Appendix D) within 5 business days from the time that the owner/operator becomes aware of the discharge or overflow.

C. All Other Non-Compliance

The owner/operator 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. Annual Compliance Report

The owner/operator 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 31st of the following year. The report must be signed by both the owner/operator and an AEM certified planner.

E. Additional Inspection and Recordkeeping for All CAFOs

In addition to compliance with the applicable NRCS Standards and the additional recordkeeping requirements in the individual facility's NMP, <u>all</u> CAFOs must conduct and keep records of the following:

1. The owner/operator shall maintain in their on-site records a copy of the current CAFO SPDES General Permit, a copy of the completed NOI, a copy of the NMP, and a copy of any NMP Certification.
2. The owner/operator 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 NMP recordkeeping;
3. Weather conditions at the time of application, the day prior to and the day following application. This must include *actual* precipitation and *forecasted* conditions;
4. Perform and record daily inspection of water lines, including drinking water or cooling water lines;
5. 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 capacity necessary to contain the 25-year, 24-hour rainfall event plus the minimum freeboard necessary per NRCS Standards and this General Permit;
6. 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;
7. Correct and record any deficiencies found as a result of daily and weekly inspections immediately. If deficiencies are not corrected within 30 days, the owner/operator must submit an explanation to the Department describing the factors preventing immediate correction;
8. Records of method used to dispose of animal mortalities, including annual capacity of method and total annual number of animal mortalities;
9. Records of all land application of manure, litter, food processing waste, digestate, and process wastewater applications;
    a) These records must include an up-to-date summary of the total gallons and/or tons applied per acre per field during the crop year cycle;

10. Records of all non-farm generated waste, including food processing waste and digestate from other persons. These records must include;
    a) Name and address of the waste generator; and
    b) Date, amount of waste, and whether waste was introduced into manure storage or directly land applied;
11. Perform and record the date(s) of manure application equipment inspection and calibration (completed annually at a minimum); and
12. Records of the scheduled check of all valves/shut offs for Waste Transfer Systems shall be maintained in accordance with Part III.B.4 of this general permit.

F. Recordkeeping requirements for CAFOs using an Anaerobic Digester

1. The CAFO must keep written records of all materials (e.g. manure, food processing waste, etc.) entering the digester including the type of material, source of the material and the amount accepted.
2. The use of the digestate (e.g. bedding, storage, land application, etc.) must be recorded.
3. For land application of digestate, the CAFO must keep written records of the location of each field used, the acreage of the field, the amount of digestate applied, and the dates of application.

G. Retention of Records

The owner/operator shall retain copies of all records and reports required by this general 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 its designee, for review upon request.

H. Electronic Recordkeeping

The owner/operator may keep records electronically when done in accordance with 6 NYCRR 750-2.5(c)(3).

VI. STANDARD PERMIT CONDITIONS

A. Duty to Comply

The owner/operator 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 eligibility under this general permit; and/or denial of coverage renewal. An owner/operator's filing of a request for a permit modification, transfer, or termination, or a notification of planned changes or anticipated non-

compliance, does not limit, diminish or stay compliance with any terms of this general permit.

B. Enforcement

Failure of the owner/operator, AEM certified planner, contracted professional engineer, agents and/or assigns to strictly adhere to any of the general permit requirements contained herein, including without limitation the requirements of any NMP whose terms are incorporated herein, shall constitute a violation of this permit. There are substantial criminal, civil, and administrative penalties associated with violating the provisions of this general permit. Fines of up to $37,500 per day for each violation and imprisonment for up to fifteen (15) years may be assessed depending upon the nature and degree of the offense.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for an owner/operator 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.

D. Duty to Provide Information

The owner/operator 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 owner/operator shall also furnish to the Department, upon request, copies of records, reports, etc. required to be kept by this general permit.

E. Incomplete Information

All reports and information submittals supplied to the Department shall contain complete information. Incomplete reports or information submittals will not be accepted, will be returned to the owner/operator and may result in a violation of this general permit.

F. Other Information

When the owner/operator 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 owner/operator shall promptly submit to the Department the additional or amended facts or information. Failure of the owner/operator to correct or supplement any relevant facts within 5 business days of becoming aware of the deficiency shall constitute a violation of this permit.

G. Signatories and Certifications

1. 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 CAFO owner/operator where the authority to sign documents has been assigned or delegated to the operator.

    a) For CAFOs 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.

2. All reports required by this general 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.

3. 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."

H. Property Rights

The issuance of this general permit does not create or 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 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.

J. Department Orders or Civil Decrees/Judgment

The issuance of this general permit by the Department and the coverage under this general permitby the owner/operator 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.

K. Requiring an Individual SPDES Permit

The Department may require any owner/operator authorized by this permit to apply for and obtain an individual SPDES permit or coverage under another general permit as provided in 6 NYCRR 750-1.12(e).

L. Proper Operation and Maintenance of all Facilities and Systems

The owner/operator 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 owner/operator 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 general permit.

1. Failure to properly operate and maintain a BMP in accordance with the requirements of the applicable NRCS standard and NMP is a violation of this general permit and must be corrected immediately.

a) 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 owner/operator under the direction of an AEM certified planner and the Department notified in accordance with Part IV.B. of this general permit. If a modification of the BMP is deemed necessary in order to protect against future impacts, the modification must be done in accordance with Part III.A of this general permit and incorporated in an amended NMP submitted for approval pursuant to Part III.D of this general permit.

M. Inspection and Entry

The owner/operator 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:

1. Enter upon the owner/operator's premises where a regulated CAFO or activity is located or conducted, or where records must be kept under the conditions of this general permit;
2. Have access to and copy, during normal business hours, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), BMPs, or operations regulated or required under this general permit, and
4. Sample or monitor at reasonable times of day, for the purpose of assuring general permit compliance or as otherwise authorized by the Environmental Conservation Law, any substances or parameters at any location.

N. Permit Actions

This general permit may be modified, revoked or suspended at any time.

O. Penalties for Falsification of Forms and Reports

In accordance with 6 NYCRR 750-2.4 and 750-2.5, any person who knowingly makes any false material statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished in

accordance with ECL §71-1933 and or Articles 175 and 210 of the New York State Penal Law**.**

P. Other Permits

Nothing in this permit relieves the owner/operator from a requirement to obtain and comply with any other permits required by law.

Q. Compliance with Water Quality Standards

If operation of the CAFO pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, in violation of NYS ECL §17-0501, or if the Department determines, on the basis of notice provided by the owner/operator and any related investigation, inspection or sampling, that a modification of the NMP 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 NYS ECL Article 17, the Department may require the owner/operator to modify the NMP and the NMP for the CAFO in accordance with Part III. of this general permit. The Department may also require abatement actions to be taken by the owner/operator and may also prohibit 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 NYS ECL.

R. 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.

S. Availability of Reports

In addition to data determined to be confidential under the Freedom of Information Law;

1. Information submitted to the Department may be claimed as confidential by the submitter, however if the Department determines this information to not be confidential, the Department may disclose the information without prior notice to the submitter; and
2. In accordance with 6 NYCRR 750.1-22(a) and NYS Public Officers Law § 95(1)(a), NOIs, NMPs, permits, effluent data, and Annual Compliance Reports shall not be considered confidential and any claims of confidentiality for this information will be denied.

T. Duty to Mitigate

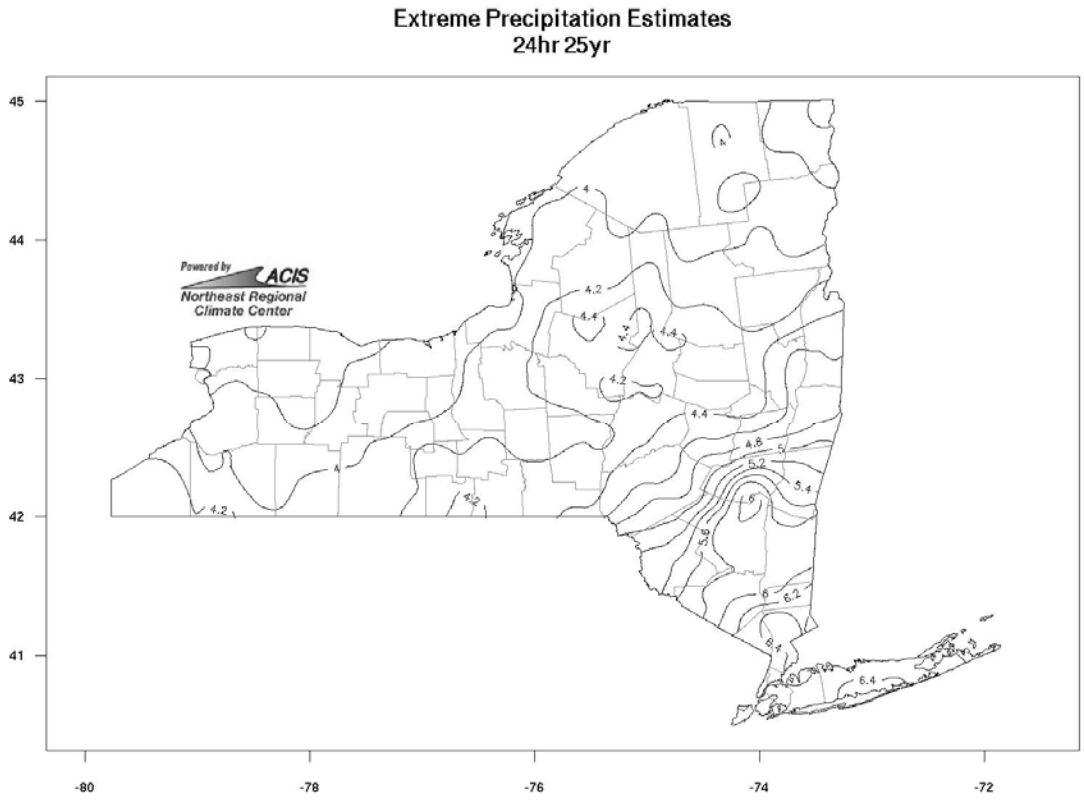
The owner/operator and its contractors and subcontractors shall take reasonable steps to minimize or prevent any violation of this general permit which has the reasonable likelihood of adversely affecting human health or the environment.

U. Reopener Clause

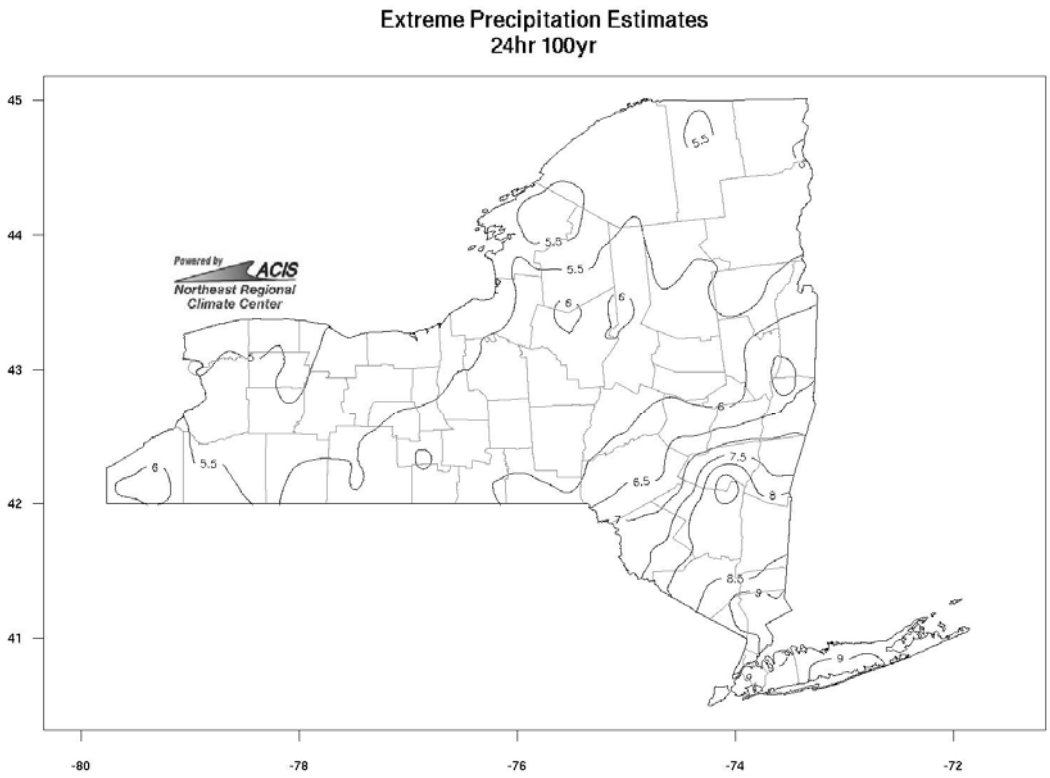
If there is evidence indicating potential or realized impacts on water quality due to any discharge associated with a CAFO covered by this general permit, the owner/operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with Part V.K. of this general permit or the general permit may be modified to include different limitations and/or requirements. Any Department initiated permit modifications, suspension or revocation will be conducted in accordance with 6 NYCRR Part 621, 6 NYCRR 750-1.18, and 6 NYCRR 750-1.20.

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 precip.net website at the time this permit was issued. See map below:



B. ***100-Year, 24-Hour Rainfall Event*** means the maximum 24-hour precipitation event with a probable recurrence interval of once in 100 years, as defined by precip.net website at the time this permit was issued. See map below:



C. ***Acquire*** means to purchase, lease or otherwise take management of an existing CAFO or AFO operation.

D. ***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.

E. ***Agricultural Environmental Management (AEM) Certified 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 NMP development training course, successfully completed a three plan performance-based NMP 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 NMPs for CAFOs in New York State. The AEM certified 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 NMPs. 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/NMP.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.

F. ***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.

G. ***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.

H. ***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.

I. ***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 lot or facility does 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.

J. ***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.

K. ***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.

L. ***Common Ownership / Common Facility*** means that two or more Animal Feeding Operations are considered one operation if, among other things, 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, (3) if they use a common land application area, or (4) if they use a shared feed storage area that is under the control of a CAFO. Operations sharing application equipment that do not result in mixing of nutrients are not, by virtue of such sharing, a common facility, or under common ownership.

M. ***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 handing 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.

N. ***Date of Coverage*** means the date the owner/operator 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 NMP 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. ***Disposal System*** means a system for disposing of sewage, stormwater, industrial waste or other wastes, including sewer systems and treatment works.

T. ***Existing Facility or Existing CAFO*** means a CAFO that met the definition of a CAFO as of the effective date of this general permit.

U. ***Expansion*** means to increase the number of animals stabled or confined beyond the contingencies specified in the existing NMP.

V. ***Export*** means the transfer of manure, litter, food processing waste, digestate, or process wastewater to other persons who, except for the benefits associated with the sale or transfer of the manure, litter, digestate, or process wastewater itself, are not affiliated with the owner/operator for profit, consideration, or any other beneficial interest derived from agricultural land management. To qualify as an export, the receiving person(s) must also be 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.

W. ***Field*** (for the purposes of planned application rates) means a clearly defined, individually identified area that, with the exception of any application setback areas, receives nutrient applications in accordance with the NMP throughout its borders.

X. ***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.

Y. ***Frozen-saturated*** means a condition formed when saturated soil freezes, creating a solid, impermeable layer which is impenetrable by injection/incorporation techniques

Z. ***Groundwater(s)*** means those waters in the saturated zone. The saturated zone is a subsurface zone in which all the interstices are filled with water under pressure greater than that of the atmosphere. Although the zone may contain

gas-filled interstices or interstices filled with fluids other than water, it is still considered saturated per 6 NYCRR 700.1(22).

AA. ***Heavy Use Areas*** are those areas frequently and intensively used by people, animals or vehicles, such as concentrated livestock areas or barnyards.

BB. ***Land Application Area*** means land under the control of an AFO owner/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/operator controls the application acreage, application rate or application times.

CC. ***Litter*** means a combination of manure and bedding material placed in dry chicken production facilities. The bedding material alone may also be referred to as litter.

DD. ***Manure*** means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal and/or utilization.

EE. ***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. This does not include existing facilities newly acquired by an existing CAFO.

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

GG. ***Nutrient Management Plan (NMP)*** means a plan, done in accordance with all applicable Natural Resources Conservation Service - Conservation Practice Standards that includes structural practices, management activities, and land management practices for an AFO associated with crop or livestock production that collectively ensures that the purpose of crop or livestock production and preservation of natural resources are compatible. Implementation of a NMP is implementation of Best Available Technology Economically Achievable (BAT). The system of practices detailed in the facility's NMP 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 as well as, 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 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, rill, and gully erosion control and application setbacks.

HH. ***Operational*** means animals being housed at a facility.

II. ***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), that does not reach *surface waters of the State*.

JJ. ***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.

KK. ***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 and return flows from irrigated agriculture.

LL. ***Process Wastewater*** means any water directly or indirectly used 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, or other AFO facilities.

b. Direct contact swimming, washing, spray-cooling of animals, or dust control.

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: non-contact cooling water; 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 NY635.

MM. ***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.

NN. ***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 vegetated treatment areas, 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. 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.

OO. ***Qualified Professional*** means a professional engineer (PE) currently licensed to practice in New York State or an NRCS employee with the appropriate job approval authority.

PP. ***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 III.A.4 of this general permit.

QQ. ***Saturated*** means soils in which pore spaces are occupied by liquid to the extent that additional inputs of water or liquid wastes cannot infiltrate into the soil.

RR. ***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.

SS. ***Surface Waters of the State*** shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface 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 waters), which are wholly or partially within or bordering the state or within its jurisdiction. Waters of the state are further defined in 6 NYCRR Parts 800 to 941. Storm sewers or conveyances, e.g. ditches, are not surface waters of the State unless they are mapped Waters of the State (further defined 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.

TT. ***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).

UU. ***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.

VV. ***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 or greater than 10,000 gallons.

WW. ***Winter spreading conditions*** means soil is frozen (4”+), snow covered (4”+), or encumbered by significant surface icing.

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/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) before commencing 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.

Note: Construction activities that have the potential to affect historic and/or archeological resources are not authorized by the SPDES Construction General Permit unless the screening and consultation process outlined in that permit has been completed and the required documentation demonstrating that potential impacts have been avoided or mitigated is obtained and maintained on site.

At a minimum, an owner/operator must comply with the following requirements for the construction activities listed:

A. Construction of Operational and Vegetative Agricultural BMPs

An owner/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
Strip-cropping

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/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/operator is not required to obtain coverage under the SPDES Construction Permit for these construction activities as this permit authorizes the discharge associated with this activity:

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/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/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/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/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/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/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/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 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/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/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 – Nutrient Management Plan (NMP) Certification Statement

OWNER/OPERATOR CERTIFICATION

To the best of my knowledge, the Nutrient Management Plan (NMP) that has been developed for this operation is in full conformance with the requirements of the New York State General Permit No. GP-0-19-001 for Concentrated Animal Feeding Operations, under authority of the State Pollutant Discharge Elimination System. All BMPs necessary to implement the NMP are completed and are functioning as designed.

I certify under penalty of law that I am the owner/operator of this CAFO. As the owner/operator of this CAFO, I am responsible for implementation of the NMP and compliance with the requirements of the New York State Pollutant Discharge Elimination System General Permit for CAFOs.

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.

Name (please print or type) Signature Date

_____

PLANNER CERTIFICATION

I am an Agricultural Environmental Management (AEM) Planner certified to develop and review Nutrient Management Plans (NMPs) for Concentrated Animal Feeding Operations (CAFOs) in New York State. I am in good standing with New York State Department of Agriculture and Markets. The NMP, NMP updates and NMP attachments (collectively the NMP) that have been developed for this operation are in full conformance with the requirements of the New York State Natural Resources Conservation Services standards and the New York State Pollutant Discharge Elimination System (SPDES) CAFO General Permit. I have reviewed the NMP and all BMPs necessary to implement the NMP with the owner and/or operator responsible for the proper operations of this CAFO.

Name (please print or type) Signature Date

_____

Appendix D – DEC REGIONAL OFFICE CONTACT INFORMATION

REGION	COVERING THE FOLLOWING COUNTIES	SPILLS HOTLINE 24 Hour Reporting	DIVISION OF WATER (DOW) WATER (SPDES) PROGRAM
1	NASSAU AND SUFFOLK	1-800-457-7362	50 CIRCLE ROAD STONY BROOK, NY 11790-3409 TEL. (631) 444-0405
2	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
3	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
4	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
5	CLINTON, ESSEX, FRANKLIN, FULTON, HAMILTON, SARATOGA, WARREN AND WASHINGTON	1-800-457-7362	232 GOLF COURSE ROAD, WARRENSBURG, NY 12885TEL. (518) 623-1212
6	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
7	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
8	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
9	ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE, NIAGARA AND WYOMING	1-800-457-7362	270 MICHIGAN AVE. BUFFALO, NY 14203-2999 TEL. (716) 851-7070