

Appendix

J

NPDES General Permit Template for CAFOs

NOTE: This NPDES General Permit template for CAFOs has been developed to address existing large CAFOs subject to the effluent limitation guidelines subparts C (dairy cows and cattle other than veal calves) and D (swine, poultry, and veal calves). This example permit has not been developed for new sources or for CAFOs subject to subparts A (horses and sheep) and B (ducks).

Example NPDES CAFO Permit Text Key:

[BOLD/SMALL CAPITALS] defines areas where the permitting authority needs to insert specific text.

[Bold/Italic] provides notes to the permitting authority designed to help it develop an NPDES CAFO permit and should be deleted when using this template.

**TEMPLATE
NPDES GENERAL PERMIT
FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)**

[AUTHORIZED NPDES PERMITTING AUTHORITY]

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

[The intent of this NPDES General Permit template for CAFOs is to provide an outline for specific permit requirements that are consistent with the NPDES CAFO regulations, CAFO ELG, and the NPDES CAFO Permit Writers' Guidance (to be updated in accordance with the 2008 final rule). EPA encourages permitting authorities to use the recommendations of the guidance manual and this template as appropriate. Minimum NPDES permitting requirements for CAFOs are defined at 40 CFR parts 122, 123, and 412 and all other applicable CWA regulations.]

In compliance with provisions of the Clean Water Act, 33 United States Code (U.S.C.) 1251 *et seq.* (the Act), **[INSERT STATE REGULATORY CITATION AS APPROPRIATE]**, owners and operators of concentrated animal feeding operations (CAFOs), except those CAFOs excluded from coverage in Part I of this permit, are authorized to discharge and must operate their facility in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein.

A copy of this permit must be kept by the permittee at the site of the permitted activity.

This permit will become effective **[DATE 30 DAYS AFTER: DATE OF PUBLICATION (GENERAL PERMIT) OR SIGNATURE (INDIVIDUAL PERMIT)]**

This permit and the authorization to discharge under the NPDES shall expire at midnight **[DATE 5 YEARS AFTER THE DATE ABOVE]**.

Signed this **[DAY]** of **[MONTH]** and **[YEAR]**.

[PERMITTING AUTHORITY—OFFICIAL]

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Part I. Permit Area and Coverage

A. Permit Area

[The permitting authority should insert language that identifies the scope of the permit. In the case of a general permit, the permit should identify the type of facilities and/or the geographic area covered (e.g., watershed, statewide) by the permit. If the general permit is restricted to specific animal types and/or to certain size facilities, those limitations should be identified here. When issuing individual permits, this section of the permit should identify the specific facility covered by the permit. Only facilities that discharge or propose to discharge are required to apply for an NPDES permit. Other CAFOs may seek permit coverage if desired.]

B. Permit Coverage

This permit covers any operation that meets the following criteria:

1. Is located in the permit area as defined by Part I.A. of this permit.
2. That meets the definition of a CAFO at 40 CFR part 122.23(b)(4) (see Part VIII, Definitions, *large CAFO* of this permit) **[INSERT STATE REGULATORY CITATION AS APPROPRIATE]**.
3. Discharges pollutants to waters of the United States. Once an operation is defined as a CAFO, the NPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.
4. Is eligible for permit coverage as defined in Part I.C. of this permit.
5. Is authorized for permit coverage by the permitting authority as specified in Part I.F. of this permit.

C. Eligibility for Coverage

Unless excluded from coverage in accordance with Paragraph D or F below, owners/operators of existing, operating animal feeding operations that are defined as CAFOs or designated as CAFOs by the permitting authority (see Part VIII Definitions, *CAFOs* of this permit) and that are subject to 40 CFR Part 412, subparts C (Dairy Cows and Cattle Other than Veal Calves) and D (Swine, Poultry, and Veal Calves) are eligible for coverage under this permit. Eligible CAFOs may apply for authorization, under the terms and conditions of this permit, by submitting a Notice of Intent (NOI) to be covered by this permit (see Appendix A of this permit). ***[The permitting authority should provide a copy of the NOI as an appendix to this permit.]***

CAFO owners/operators may also seek to be excluded from coverage under this permit by (1) submitting to the permitting authority a Notice of Termination form (see Appendix D of this

permit). *[The permitting authority should specify the information to be included in such a request or, if available, the form to be used and include a copy of the form as an appendix to the permit.]* or (2) by applying for an individual NPDES Permit in accordance with Part I.F of this permit.

[The permitting authority should specify an overall approach that defines how CAFOs are to be permitted. That requires determining those types of CAFOs that will be addressed under either general (statewide or watershed) or individual permits. The approach should be modified, as necessary, to reflect specific permitting authority programmatic priorities and constraints.]

D. Limitations on Coverage

The following CAFOs are not eligible for coverage under this NPDES general permit and must apply for an individual permit: *[Specific eligibility limitations for the general permit should be determined by the NPDES permitting authority.]*

E. Application for Coverage

[The permitting authority should insert the appropriate text in this section. Two alternatives are provided for E.1 providing different levels of detail.]

1. Owners/operators of CAFOs seeking to be covered by this permit must perform the following:
 - a. For facilities covered by an expiring or expired permit that wish to have continuous permit coverage, submit an NOI to the permitting authority within *[The permitting authority may establish a time frame for submitting the NOI, which may extend to the expiration date of the permit or some time before the expiration date.]* days of the effective date of this permit.
 - b. Submit a Nutrient Management Plan (NMP) with the NOI that meets the requirements of 40 CFR Parts 122 and 412, where applicable.
 - c. Submit an NOI after the applicable date in Part I. E.1.a. above. Regardless of when the NOI is submitted, the CAFO's authorization under this permit is only for discharges that occur after permit coverage is granted. The permitting authority reserves the right to take appropriate enforcement actions for any unpermitted discharges.

[Where a CAFO has submitted an application for coverage under an individual permit before issuance of the general permit, the CAFO must (1) submit an NOI for coverage under the general permit, or (2) submit an updated application for coverage under an individual permit if the application requirements have been revised or if the information in the existing application is not current.]

2. Contents of the NOI: The NOI submitted for coverage under this permit must include the following information:
 - a. Name of the owner or operator.
 - b. Facility location and mailing addresses.
 - c. Latitude and longitude of the production area (entrance to production area).
 - d. Topographic map of the geographic area in which the CAFO is located showing the specific locations of the production area, land application area, and the name and location of the nearest surface waters.
 - e. A diagram of the production area.
 - f. Number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other).
 - g. Type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, aboveground storage tanks, belowground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons). *[Note: Total design storage volume includes all wastes accumulated during the storage period, and as applicable; normal precipitation less evaporation on the surface of the structure during the storage period; normal runoff from the production area for the storage period; the direct precipitation from a 25-year, 24-hour storm on the surface of the structure; the runoff from the 25-year, 24-hour storm from the production area; residual solids; and necessary freeboard to maintain structural integrity.]*
 - h. Total number of acres under control of the applicant available for land application of manure, litter, or process wastewater.
 - i. Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons).
 - j. Estimated amounts of manure, litter and process wastewater transferred to other persons per year (tons/gallons).
 - k. An NMP that meets the requirements of the provisions of 40 CFR part 122.42(e) (including, for all CAFOs subject to 40 CFR part 412, subpart C or subpart D, the requirements of 40 CFR part 412.4(c), as applicable) and Part III of this permit.
3. Signature Requirements: The NOI must be signed by the owner/operator or other authorized person in accordance with Part VII.E of this permit.
4. Where to Submit: Signed copies of the NOI or individual permit application must be sent to: **[PERMITTING AUTHORITY MAILING ADDRESS]**.

5. Upon receipt, the permitting authority will review the NOI and NMP to ensure that the NOI and NMP are complete. The permitting authority may request additional information from the CAFO owner or operator if additional information is necessary to complete the NOI and NMP or to clarify, modify, or supplement previously submitted material. If the permitting authority makes a preliminary determination that the NOI is complete, the NOI, NMP and draft terms for the NMP to be incorporated into the permit will be made available for a thirty (30) day public review and comment period. The process for submitting public comments and requests of hearing will follow the procedures applicable to draft permits as specified by 40 CFR parts 124.11 through 124.13. The permitting authority will respond to comments received during the comment period as specified in 40 CFR part 124.17 and, if necessary, require the CAFO owner or operator to revise the NMP in order to granted permit coverage. If determined appropriate by the permitting authority, CAFOs will be granted coverage under this general permit upon written notification by EPA. The permitting authority will identify the terms of the NMP to be incorporated into the permit in the written notification.

F. Requiring an Individual Permit

1. **The [PERMITTING AUTHORITY], may at any time require any facility authorized by this permit to apply for and obtain an individual NPDES permit. [PERMITTING AUTHORITY] will notify the operator, in writing, that an application for an individual permit is required within [TIME FRAME FOR APPLICATION SUBMISSION]. Coverage of the facility under this general NPDES permit is automatically terminated when (1) the operator fails to submit the required individual NPDES permit application within the defined time frame or (2) the individual NPDES permit is issued by [PERMITTING AUTHORITY].**
2. Any owner/operator covered under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner/operator shall submit an application for an individual permit (Form 1 and Form 2B) with the reasons supporting the application to the [PERMITTING AUTHORITY]. If a final, individual NPDES permit is issued to an owner/operator otherwise subject to this general permit, the applicability of this NPDES CAFO general permit to the facility is automatically terminated on the effective date of the individual NPDES permit. Otherwise, the applicability of this general permit to the facility remains in full force and effect (for example, if an individual NPDES permit is denied to an owner/operator otherwise subject to this general permit).

G. Permit Expiration

This permit will expire 5 years from the effective date. The permittee must reapply for permit coverage 180 days before the expiration of this permit unless the permit has been terminated consistent with 40 CFR part 122.64(b) or the CAFO will not discharge or propose to discharge upon expiration of the permit. If this permit is not reissued or replaced before the expiration date, it will

be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who is granted permit coverage before the expiration date will automatically remain covered by the continued permit until the earlier of any of the following:

1. Reissuance or replacement of this permit, at which time the permittee must comply with the NOI conditions of the new permit to maintain authorization to discharge.
2. Issuance of an individual permit for the permittee's discharges.
3. A formal decision by the permitting authority not to reissue this general permit, at which time the permittee must seek coverage under an individual permit.
4. The permitting authority grants the permittee's request for termination of permit coverage.

H. Change in Ownership

If a change in the ownership of a facility whose discharge is authorized under this permit occurs, coverage under the permit will automatically transfer if (1) the current permittee notifies the permitting authority at least 30 days prior to the proposed transfer date; (2) the notice includes a written agreement between the existing and new permittees containing a specific transfer date for permit responsibility, coverage, and liability; and (3) the permitting authority does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If the new CAFO owner or operator modifies any part of the NMP, the NMP shall be submitted to the permitting authority in accordance with Part III.A of this permit and 40 CFR part 122.42(e)(6).

I. Termination of Permit Coverage

1. Coverage under this permit may be terminated in accordance with 40 CFR part 122.64 and if EPA determines in writing that one of the following three conditions are met:
 - a. The facility has ceased all operations and all wastewater or manure storage structures have been properly closed in accordance with *[The appropriate standard for closure for example, Natural Resource Conservation Service (NRCS) Conservation Practice Standard No. 360, Closure of Waste Impoundments, as contained in the Natural Resources Conservation Service Field Office Technical Guide]* and all other remaining stockpiles of manure, litter, or process wastewater not contained in a wastewater or manure storage structure are properly disposed.
 - b. The facility is no longer a CAFO that discharges manure, litter, or process wastewater to waters of the United States.
 - c. In accordance with 40 CFR part 122.64, the entire discharge is permanently terminated by elimination of the flow or by connection to a publicly owned treatment works (POTW).

Part II. Effluent Limitations and Standards and Other Legal Requirements

A. Effluent Limitations and Standards

[The permit writer will include (1) technology-based effluent limitations, and (2) any more stringent water quality-based effluent limitations where necessary to prevent discharges from the production area that would cause or contribute to an exceedance of water quality standards.]

The following effluent limitations apply to facilities covered under this permit:

[These provisions apply to all existing facilities that are subject to the CAFO ELG specified in 40 CFR part 412 parts C and D. In other cases, the permit writer establishes technology-based limitations on the basis of the specific requirements defined in the CAFO ELG or through the application of best professional judgment (BPJ), whichever is determined to be applicable.]

1. Technology-based Effluent Limitations and Standards—Production Area.

The CAFO must implement the terms of an NMP, as specified below and in Part III.B of this permit.

- a. There may be no discharge of manure, litter, or process wastewater pollutants into waters of the United States from the production area except as provided below:

Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged into waters of the United States provided:

- i. The production area is properly designed, constructed, operated and maintained to contain all manure, litter, process wastewater and the runoff and direct precipitation from the 25-year, 24-hour storm event for the location of the CAFO.
- ii. The design storage volume is adequate to contain all manure, litter, and process wastewater accumulated during the storage period including, at a minimum, the following:
 - a) The volume of manure, litter, process wastewater, and other wastes accumulated during the storage period.
 - b) Normal precipitation less evaporation during the storage period.
 - c) Normal runoff during the storage period.
 - d) The direct precipitation from the 25-year, 24-hour storm.
 - e) The runoff from the 25-year, 24-hour storm event from the production area.
 - f) Residuals solids after liquid has been removed.
 - g) Necessary freeboard to maintain structural integrity.
 - h) A minimum treatment volume, in the case of treatment lagoons.

- b. Installation of a depth marker in all open surface liquid impoundments. The depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event. The marker shall be visible from the top of the levee.
- c. Weekly visual inspections of all stormwater diversion devices, runoff diversion structures, and devices channeling contaminated stormwater to the wastewater and manure storage and containment structures.
- d. Weekly inspections of the manure, litter, and process wastewater impoundments noting the level as indicated by the depth marker installed in accordance with Part II.A.1.b of this permit.
- e. Daily visual inspections of all water lines, including drinking water and cooling water lines.
- f. Timely correction of any deficiencies that are identified in daily and weekly inspections.
- g. Proper disposal of dead animals [*may specify a timeframe for example, within 3 days*] unless otherwise provided for by the permitting authority. Mortalities must not be disposed of in any liquid manure or process wastewater system that is not specifically designed to treat animal mortalities. Animals shall be disposed of in a manner to prevent contamination of waters of the United States or creation of a public health hazard.
- h. The maintenance of complete, on-site records documenting implementation of all required additional measures for a period of 5 years, including the records specified for Operation and Maintenance in Part V.C, Table V-A of this permit.
- i. The production area must be operated in accordance with the additional measures and records specific in Part II.A.2 of this permit.

2. Additional Measures–Applicable to the Production Area.

In addition to meeting the requirements in Part II.B of this permit, the permittee must implement the following additional measures:

- a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities.
- b. Mortality handling practices shall be in accordance with all applicable state and local regulatory requirements. Any such state/local requirements should be consistent with NRCS Practice Standard 316 as applicable.
- c. Ensure that clean water is diverted, as appropriate, from the production area in accordance with Part III.A.3.c of this permit.
- d. Prevent direct contact of confined animals with waters of the United States.

- 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 specific records that will be maintained to document the implementation and management of Part II.A.2. a through c of this permit.
- g. In cases where CAFO-generated manure, litter, or process wastewater is sold or given away, the permittee must comply with the following conditions:
 - i. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation.
 - ii. Record the name and address of the recipient.
 - iii. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater.
 - iv. The records must be retained on-site, for a period of 5 years, and be submitted to the permitting authority on request.

3. Water Quality-based Effluent Limitations and Standards—Production Area.

[PERMITTING AUTHORITY TO SPECIFY APPLICABLE WATER QUALITY-BASED EFFLUENT LIMITATIONS.] *[The permit writer must ensure that the permit includes effluent limitations developed from applicable technology-based requirements and any more stringent effluent limitations necessary to meet water quality standards. A water quality-based effluent limitation is designed to protect the quality of the receiving water by ensuring state or tribal water quality standards are met. Federal regulations, 40 CFR part 122.44(d), require permit limitations to control all pollutants that may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard. Where water-quality based effluent limitations apply (i.e., are more stringent), technology-based effluent limitations do not apply.]*

The permit writer determines the need to establish more restrictive requirements for the production area, particularly for instances where the discharge is to 303(d) waterbodies listed for nutrients, dissolved oxygen, or bacteria, or where an analysis of frequency, duration and magnitude of the anticipated discharge (consisting of potential overflows of manure, litter, or process wastewater) indicates the reasonable potential to violate applicable water quality standards. With respect to the production area, the imposition of a more restrictive water quality-based effluent limitation can include the establishment of more restrictive requirements, such as the imposition of a higher design standard (e.g., 100 year, 24-hour storm in the case of existing sources under subpart C and D of the CAFO ELG) or the inclusion of additional management practices.]

4. Technology-based Effluent Limitations and Standard—Land Application Areas under the Control of the CAFO Owner/Operator.

Permittees that apply manure, litter, or process wastewater to land under the permitted CAFO's ownership or operational control must implement the terms of an NMP, as specified below and in Part III.B of this permit. The NMP must be developed in accordance with the requirements of this section and Part III.A of this permit.

- a. Determination of application rates. Application rates for manure, litter, or process wastewater must minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the technical standards for nutrient management established by the permitting authority. **[INSERT OR REFERENCE TECHNICAL STANDARDS FOR NUTRIENT MANAGEMENT ESTABLISHED BY THE PERMITTING AUTHORITY IN ACCORDANCE WITH 40 CFR 123.36. THE TECHNICAL STANDARD MUST (1) SPECIFY THE FIELD-SPECIFIC ASSESSMENT OF THE POTENTIAL FOR NITROGEN AND PHOSPHORUS TRANSPORT FROM THE FIELD TO SURFACE WATERS, (2) ADDRESS THE FORM, SOURCE, AMOUNT, TIMING, AND METHOD OF APPLICATION OF NUTRIENTS ON EACH FIELD TO ACHIEVE REALISTIC PRODUCTION GOALS, AND (3) INCLUDE APPROPRIATE FLEXIBILITIES FOR THE IMPLEMENTATION OF SPECIFIC NUTRIENT MANAGEMENT PRACTICES TO COMPLY WITH THE STANDARD.]** *[It is recommended that a complete copy of the standard established by the permitting authority be included as an appendix to the permit.]*
- b. Manure and soil sampling. Manure must be analyzed at least once annually for nitrogen and phosphorus content. Soil must be analyzed at least once every 5 years **[or replace with more stringent state-specific soil sampling frequencies for phosphorus and nitrogen]**. The results of the analyses must be used in determining application rates for manure, litter, and process wastewater.
- c. Inspection of land application equipment for leaks. Equipment used for land application of manure, litter, or process wastewater must be inspected periodically for leaks.
- d. Land application setback requirements. Manure, litter, or process wastewater must not be applied closer than 100 feet to any downgradient waters of the United States, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to waters of the United States. The permittee may elect to use a 35-foot vegetated buffer where applications of manure, litter, or process wastewater are prohibited as an alternative to the 100-foot setback to meet the requirement.
- e. Record Keeping requirements. Complete, on-site records including the site-specific NMP must be maintained to document implementation of all required land application practices. Such documentation must include the records specified for Soil and Manure/Wastewater Nutrient Analyses and Land Application in Part V.C, Table V-A of this permit.

[Site-specific conservation practices (other than the setback requirements in 40 CFR part 412.4(c)(5) which apply to all Large CAFOs) and protocols to land

apply manure, litter and process wastewater are site-specific and must be included in Part IV of this permit.]

5. Additional Measures–Applicable to the Land Application under the Control of the CAFO Owner/Operator.

[Permitting authorities should consider the applicability of the following types of additional limitations for land application under the control of the CAFO. Options are not limited to the examples presented below.]

- a. Additional BMPs to control discharges from land application areas. *[Insert BMPs to control discharges from land application areas, such as limiting discharges from tile drains, areas where there is significant soil erosion, and/or runoff associated with irrigation.]*
- b. Prohibitions.
 - i. There shall be no discharge of manure, litter, or process wastewater to waters of the United States from a CAFO as a result of the application of manure, litter or process wastewater to land areas under the control of the CAFO, except where it is an agricultural stormwater discharge. Where manure, litter, or process wastewater has been applied in accordance with the terms of the NMP as set forth in Part II.A and III.B of this permit, a precipitation related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural stormwater discharge.
 - ii. *[Any state-specific prohibition or other limitations such as timing of land application, (e.g., no application on frozen or snow-covered land), minimum storage capacity, or specific BMPs required (e.g., stockpiles, prevention of the direct contact of animals with waters of the United States).]*

6. Water Quality-based Effluent Limitations and Standards–Applicable to the Land Application under the Control of the CAFO Owner/Operator.

[PERMITTING AUTHORITY TO SPECIFY OTHER/ALTERNATE APPLICABLE WATER QUALITY-BASED EFFLUENT LIMITATIONS.] *[Discharges from CAFOs that are not exempt from CWA permitting requirements (i.e., agricultural stormwater discharges) are subject to NPDES requirements, including water quality-based effluent limitations. The permit writer may determine the need to establish effluent limitations necessary to meet water quality standards. A water quality-based effluent limitation is designed to protect the quality of the receiving water by ensuring state or tribal water quality standards are met. Federal regulations, 40 CFR part 122.44(d) require permit limitations to control all pollutants that may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard. Water quality-based effluent limitations might be needed when there is a dry-weather discharge (e.g., from tile drain systems or clean water irrigation on fields where manure was previously applied) from the land application area that causes or contributes to an excursion above any state water quality standard.]*

7. Effluent Limitations—Other Discharges.

[All discharges other than agricultural stormwater should be addressed under a CAFO permit. Therefore, if there are situations or conditions that result in a discharge during the term of the permit and that are not addressed under the effluent limitations above, such discharges should be addressed either here or in part IV.B of this permit (Special Conditions, Additional Special Conditions) through the application of BPJ and, to the extent necessary, the use of water quality-based effluent limitations. The language provided below includes examples. Such conditions should be developed using state-specific requirements and CAFO-specific conditions.]

- a. Process wastewater discharges from outside the production area, including: washdown of equipment that has been in contact with manure, raw materials, products or by-products that occurs outside the production area; runoff of pollutants from raw materials, products or by-products (such as manure, litter, bedding and feed) from the CAFO that have been spilled or otherwise deposited outside the production area which are discharged to waters of the United States; and **[INSERT ANY OTHER DISCHARGES MEETING THIS DESCRIPTION]** shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards. **[SPECIFY ADDITIONAL REQUIREMENTS HERE OR CROSS-REFERENCE REQUIREMENTS ELSEWHERE IN THIS PERMIT]**
- b. Wastewater discharges that do not meet the definition of process wastewater, including: (1) discharges associated with feed, fuel, chemical, or oil spills, equipment repair, and equipment cleaning, where the equipment has not been in contact with manure, raw materials, products or by-products; (2) domestic wastewater discharges; and **[INSERT ANY OTHER DISCHARGES MEETING THIS DESCRIPTION]** shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards. **[SPECIFY ADDITIONAL REQUIREMENTS HERE OR CROSS-REFERENCE REQUIREMENTS ELSEWHERE IN THIS PERMIT].**
- c. Stormwater discharges that are not addressed under the effluent limitations in Section II above remain subject to applicable industrial or construction stormwater discharge requirements. *[Permit writers might want to clarify that such stormwater excludes process wastewater, discharges that qualify as agricultural stormwater, and discharges from construction activities that disturb less than one acre. Permit writers also may want to discuss the applicability of the no exposure provisions specified in 40 CFR part 122.26(g), as well as either specify or reference the applicable stormwater requirements or reference an applicable stormwater permit.]* **[WHERE APPROPRIATE, REFERENCE GENERAL PERMIT OR OTHER APPLICABLE STORMWATER REQUIREMENTS.**

In addition to meeting the above effluent limitations in Part II.A of this permit, the permittee must comply with the special conditions established in Part IV of this permit.

B. Other Legal Requirements

No condition of this permit shall release the permittee from any responsibility or requirements under other statutes or regulations, federal, state/Indian tribe or local.

Part III. Effluent Limitations and Standards of the Nutrient Management Plan

A. Procedural Requirements for Implementing the Terms of the Nutrient Management Plan

CAFO owners or operators seeking coverage under this general permit must submit a Nutrient Management Plan (NMP) with the NOI, as required by Part I.E.1 of this permit. The NMP shall specifically identify and describe practices that will be implemented to assure compliance with the effluent limitations and other conditions of this permit set forth in this part and Part II.A of this permit (Effluent Limitations and Standards). The NMP must be developed in accordance with the technical standards identified in Appendix B of this permit. *[Alternatively, technical standards may be identified in this section.]*

1. **Schedule.** The completed NMP must be submitted to the permitting authority with the NOI for CAFOs seeking coverage under this permit. The CAFO shall implement its NMP upon authorization under this permit, in accordance with the terms of the NMP set forth in Part III.B of this permit.
2. **NMP Review and Terms**
 - a. Upon receipt of the NMP, the permitting authority will review the NMP. The permitting authority may request additional information from the CAFO owner or operator if additional information is necessary to complete the NMP, or to clarify, modify, or supplement previously submitted material.
 - b. The permitting authority will use the NMP to identify site-specific permit terms, to be incorporated into this permit. The permitting authority will identify site-specific permit terms with respect to protocols for the land application of manure, litter, and process wastewater. The permitting authority will also identify site-specific permit terms with respect to manure, litter, and process wastewater storage capacities and site-specific conservation practices on the basis of the CAFO's NMP to the extent that such terms are necessary to support the application rates expressed in the NMP. The permitting authority will also identify site-specific permit terms with respect to mortality management, clean water diversions, preventing direct contact of animals with waters of the United States, chemical handling, protocols for manure and soil testing, and record keeping as appropriate.

- c. When the permitting authority determines that the NMP and NOI are complete, the permitting authority will notify the public of the permitting authority's proposal to grant coverage under the permit and make available for public review and comment the NOI submitted by the CAFO, including the CAFO's NMP, and the permitting authority will identify the terms of the NMP to be incorporated into the permit. ***[The permit should state where and how notice to the public will be provided.]***
 - d. The period for the public to comment and request a hearing on the proposed terms of the NMP to be incorporated into the permit shall be ***[The permitting authority can specify in the permit; cite a state regulation; or use a time period specified in 40 CFR part 124.10 (i.e., 30 days)]***.
 - e. The permitting authority will respond to comments received during the comment period, as provided in 40 CFR part 124.17, and, if necessary, require the CAFO owner or operator to revise the NMP to be granted permit coverage.
 - f. When the permitting authority authorizes the CAFO owner or operator to discharge under the general permit, the terms of the NMP shall be incorporated as terms and conditions of the permit for the CAFO. The permitting authority will notify the CAFO owner or operator that coverage has been authorized and of the applicable terms and conditions of the permit. Those site-specific permit terms will be provided to the permittee in a ***[permitting authority specify procedure/mechanism (e.g., permit authorization notice/letter, certificate of coverage, permit modification)]***.
 - g. Each CAFO covered by this permit must comply with the site-specific permit terms established by the permitting authority on the basis of the CAFO's site-specific NMP.
- 3. NMP Content.** The site-specific NMP at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards in Part II.A of this permit. In addition, the NMP and each CAFO covered by this permit must, as applicable do the following:
- 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 containment structures shall at a minimum be designed, constructed, operated, and maintained in accordance with the standards of the *Natural Resources Conservation Service, Field Office Technical Guide* ***[or other standards identified by the permitting authority]***. Storage capacity must be sufficient to meet the minimum applicable state requirements, including ***[permitting authority specify or reference state storage requirements]***, and it must be sufficient to allow the CAFO to comply with the land application schedule specified in the NMP. The NMP must describe the extent that the NMP

depends on off-site transport or other means of handling to ensure adequate storage capacity, if applicable.

[If the CAFO needs to maintain storage capacity that exceeds the minimum state capacity requirements to comply with the land application provisions in the NMP, the storage capacity shall become a term of this permit and site-specific terms are to be developed by the permitting authority on the basis of the submitted NMP.]

- b. Ensure proper management of mortalities (i.e., dead animals) to ensure that 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 shall be handled in such a way as to prevent the discharge of pollutants to waters of the United States. Mortality handling practices shall be in accordance with all applicable state and local regulatory requirements, including ***[Insert state/local regulatory requirements as appropriate. Any such state/local requirements should be consistent with NRCS Practice Standard 316 as applicable.]***
- c. Ensure that clean water is diverted, as appropriate, from the production area. Any clean water that is not diverted and comes into contact with raw materials, products, or by-products including manure, litter, process wastewater, feed, milk, eggs, or bedding is subject to the effluent limitations specified in Part II.A of this permit. Where clean water is not diverted, the CAFO owner or operator must document that it has been accounted for in meeting the requirement to ensure adequate storage capacity as a condition of this permit. Clean water includes, but is not limited to, rain falling on the roofs of facilities and runoff from adjacent land.
- d. Prevent the direct contact of animals confined or stabled at the facility with waters of the United States.
- e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or stormwater storage or treatment system unless specifically designed to treat such chemicals or contaminants. All wastes from dipping vats, pest and parasite control units, and other facilities used for the management of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner sufficient to prevent pollutants from entering the manure, litter, or process wastewater retention structures or waters of the United States. Include references to any applicable chemical handling protocols and indicate that other protocols included in the NMP will be reviewed.
- f. Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States and specifically to minimize the runoff of nitrogen and phosphorus. Each CAFO covered by this permit must implement the site-specific conservation practices determined by the permitting authority

to be a term of this permit, as specified in *[Identify mechanism (e.g., permit authorization notice/letter, certificate of coverage, permit modification) that the permitting authority will use to specify terms.]*, including residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, and diversions. At a minimum, such practices must be adequate to keep erosion levels in each field at or less than the soil loss tolerance (T) value specified in the *Natural Resources Conservation Service, Field Office Technical Guide [or other standards identified by the Permitting Authority]*. *[Comment: Note that conservation practices become terms of the NMP in two ways:*

- i. *Conservation practices are terms based on the information, protocols, BMPs and activities deemed necessary to meet part 122.42(e)(1).*
 - ii. *Conservation practices become permit terms to the extent that they influence the risk of runoff rating and consequently the application rate. Site-specific terms are to be developed by the permitting authority based on the submitted NMP.]*
- g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil. Manure, wastewater and soil sampling must be conducted in accordance with the requirements of Part III.A.2.b of this permit and the following protocols: *[Insert specific references for the protocols that are to be used]*.
- 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 CAFO's site-specific NMP shall document the calculation of land application rates of manure, litter, or process wastewater. The following technical standard for nutrient management established by the permitting authority shall be used for calculating these rates. *[Insert reference to state technical standards]* 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 water. The rate calculation shall be based on the results of a field specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters using the following assessment protocol *[Insert phosphorus risk assessment tool established by the permitting authority]*.

Application rates may be expressed in NMPs consistent with one of the two approaches described in Parts III.A.3.h.i and ii of this permit. *[The permitting authority may limit CAFOs to one approach for specifying application rates or allow both approaches.]*

Development of site-specific terms will be based on the permitting authority's review of the NMP submitted in accordance with the requirements of Part III.B of this permit. To support the development of site-specific terms the submitted NMP must include at a minimum:

- Names of fields available for land application.
- Field-specific rates of application properly developed as specified in paragraph i or ii below in the following chemical forms in this part and **[specify forms of nitrogen and phosphorus to be used for expressing application rates]**.
- *[Placeholder for EPA-or state-specified timing restrictions such as no saturated, frozen, or snow covered ground or during periods of crop dormancy]*.
- The information specified in paragraph i and ii below for the selected approach.
- Any additional information necessary to assess the adequacy of the application rates included in the NMP.
 - i. Linear Approach. Expresses rates of application as pounds of nitrogen and phosphorus. CAFOs selecting the linear approach to address rates of application must include in the NMP submitted to the permitting authority the following information for each crop, field, and year covered by the NMP, which will be used by the permitting authority to establish site-specific permit terms:
 - The maximum application rate (pounds/acre/year of nitrogen and phosphorus) from manure, litter, and process wastewater.
 - The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. [If a state does not have an N transport risk assessment, the NMP must document any basis for assuming that nitrogen will be fully used by crops.] The CAFO must specify any conservation practices used in calculating the risk rating.
 - The crops to be planted or any other uses of a field such as pasture or fallow fields.
 - The realistic annual yield goal for each crop or use identified for each field.
 - The nitrogen and phosphorus recommendations from *[permitting authority to specify acceptable sources]* for each crop or use identified for each field.
 - Credits for all residual nitrogen in each field that will be plant-available.
 - Consideration of multi-year phosphorus application. For any field where nutrients are applied at a rate based on the crop phosphorus requirement, the NMP must account for single-year nutrient applications that supply more than the crop's annual phosphorus requirement.

- All other additions of plant available nitrogen and phosphorus (i.e., from sources other than manure, litter, or process wastewater or credits for residual nitrogen).
 - The form and source of manure, litter, and process wastewater to be land-applied.
 - The timing and method of land application. The NMP also must include storage capacities needed to ensure adequate storage that accommodates the timing indicated.
 - The methodology that will be used to account for the amount of nitrogen and phosphorus in the manure, litter, and wastewater to be applied.
 - Any other factors necessary to determine the maximum application rate identified in accordance with this Linear Approach.
- ii. Narrative Rate Approach. Expresses a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied. CAFOs selecting the narrative rate approach to address rates of application must include in the NMP submitted to the permitting authority the following information for each crop, field, and year covered by the NMP, which will be used by the permitting authority to establish site-specific permit terms:
- The maximum amounts of nitrogen and phosphorus that will be derived from all sources of nutrients (pounds/acre for each crop and field).
 - The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. ***[If a state does not have an N transport risk assessment, the NMP must document any basis for assuming that nitrogen will be fully used by crops.]*** The CAFO must specify any conservation practices used in calculating the risk rating.
 - 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.
 - The realistic annual yield goal for each crop or use identified for each field for each year, including any alternative crops identified.
 - The nitrogen and phosphorus recommendations from ***[the permitting authority to specify acceptable sources]*** for each crop or use identified for each field, including any alternative crops identified.
 - 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 Parts II.A.4.b and III.A.3.g of this permit, (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 (for any field where nutrients are applied at a rate based on the crop phosphorus requirement, the methodology must account for single-year nutrient applications that supply more than the crop's annual phosphorus requirement), (5) 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) timing and method of land application, and (7) volatilization of nitrogen and mineralization of organic nitrogen.

- Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach.
 - NMPs using the Narrative Rate Approach must also include the following projections, which will not be used by the permitting authority 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.
 - vi. The predicted form, source, and method of application of manure, litter, and process wastewater for each crop.
4. Signature. The NMP shall be signed by the owner/operator or other signatory authority in accordance with Part VII.E of this permit (Signatory Requirements).
 5. A current copy of the NMP shall be kept on site at the permitted facility in accordance with Part VII.C of this permit and provided to the permitting authority upon request.
 6. Recordkeeping Requirement
 - a. Large CAFOs using the linear rate 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 test must be taken within 12 months of the date of land application.

- b. All CAFOs using 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.3.h of this permit 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 Parts II.A.4.b and III.A.3.g of this permit.
 - ii. The results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, as required in Parts II.A.4.b and III.A.3.g of this permit, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.
 - c. Identify and maintain all records necessary to document the development and implementation of the NMP and compliance with the permit.
7. Changes to the NMP
- a. When a CAFO owner or operator covered by this permit makes changes to the CAFO's NMP previously submitted to the permitting authority, the CAFO owner or operator must provide the permitting authority with the most current version of the CAFO's NMP and identify changes from the previous version, except that annual calculations of application rates for manure, litter, and process wastewater as required in Part III.A.6.a of this permit (for the Linear Approach) and Part III.A.6.b of this permit (for the Narrative Rate Approach) are not required to be submitted to the permitting authority.
 - b. When changes to an NMP are submitted to the permitting authority, the permitting authority will review the revised NMP to ensure that it meets the requirements of Parts II.A and III.A.3 of this permit. If the permitting authority determines that the changes to the NMP necessitate revision to the terms of the NMP incorporated into the permit issued to the CAFO, the permitting authority must determine whether such changes are substantial. Substantial changes to the terms of an NMP incorporated as terms and conditions of a permit include the following:
 - i. Addition of new land application areas not previously included in the CAFO's NMP, except if the added land application area is covered by the terms of an NMP incorporated into an existing NPDES permit and the CAFO complies with such terms when applying manure, litter, and process wastewater to the added land.
 - ii. For NMPs using the Linear Approach, changes to the field-specific maximum annual rates of land application (pounds of nitrogen and phosphorus from

manure, litter, and process wastewater). For NMPs using the Narrative Rate Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop.

- iii. Addition of any crop or other uses not included in the terms of the CAFO's NMP.
- iv. 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 waters of the United States.
- v. If the permitting authority determines that the changes to the terms of the NMP are not substantial, the permitting authority will include the revised NMP in the permit record, revise the terms of the permit on the basis of the site-specific NMP, and notify the CAFO and the public of any changes to the terms of the permit on the basis of revisions to the NMP.
- vi. If the permitting authority determines that the changes to the terms of the NMP are substantial, the permitting authority will notify the public, make the proposed changes and the information submitted by the CAFO owner or operator available for public review and comment, and respond to all significant comments received during the comment period. The permitting authority may require the CAFO to further revise the NMP, if necessary. Once the permitting authority incorporates the revised terms of the NMP into the permit, the permitting authority will notify the CAFO of the revised terms and conditions of the permit. *[The permitting authority can specify a period for processing substantial changes and the permit should state where and how notice to the public will be provided.]*

B. Terms of The Nutrient Management Plan

Any CAFO authorized under this general permit must comply with the terms of the CAFO's site-specific NMP, as established by the permitting authority pursuant to the procedural requirements of Part III.A of this permit. The terms of the NMP for each CAFO authorized by this permit are a part of this permit and are set forth as follows:

[The permit must clearly establish that the terms of the NMP are enforceable terms and conditions of the permit. In addition, the permitting authority must identify how the terms of the NMP are documented and included or otherwise incorporated into the permit. Any permit text must be part of the text of the permit as a whole. The location of the CAFO's entire NMP must also be identified so that the public can refer to the document as a whole.]

Permit Terms and Conditions

[In this section add the site-specific components of the NMP that are necessary to meet the requirements of 40 CFR part 122.42(e)(5(i) or (ii)].

Part IV. Special Conditions

A. Facility Closure

The following conditions shall apply to the closure of lagoons and other earthen or synthetic lined basins and other manure, litter, or process wastewater storage and handling structures:

1. Closure of Lagoons and Other Surface Impoundments
 - a. No lagoon or other earthen or synthetic lined basin shall be permanently abandoned.
 - b. Lagoons and other earthen or synthetic lined basins shall be maintained at all times until closed in compliance with this section.
 - c. All lagoons and other earthen or synthetic lined basins must be properly closed if the permittee ceases operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of 12 consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either (1) maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or (2) removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall notify the **[PERMITTING AUTHORITY]** of the action taken and shall conduct routine inspections, maintenance, and record keeping as though the structure were in use. Before restoration or use of the structure, the permittee shall notify the **[PERMITTING AUTHORITY]** and provide the opportunity for inspection.
 - d. All closure of lagoons and other earthen or synthetic lined basins must be consistent with *[insert citation to specific standards as determined to be applicable by the permitting authority]*. Consistent with that standard, the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's NMP, unless otherwise authorized by the **[PERMITTING AUTHORITY]**.
 - e. Unless otherwise authorized by the **[PERMITTING AUTHORITY]**, completion of closure for lagoons and other earthen or synthetic lined basins shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.

2. Closure Procedures for Other Manure, Litter, or Process Wastewater Storage and Handling Structure

No other manure, litter, or process wastewater storage and handling structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within 12 months after the date on which the use of the structure ceased. To close a

manure, litter, or process wastewater storage and handling structure, the permittee shall remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's NMP, or document its transfer from the permitted facility in accordance with off-site transfer requirements specified in this permit *[Insert Permit Cite]*, unless otherwise authorized by the **[PERMITTING AUTHORITY]**.

B. Additional Special Conditions

[This section is to be used by the permitting authority to specify any additional special conditions such as procedures for emergency discharge impact abatement, irrigation control, spill control procedures, specific measurements to be collected (i.e., rainfall), and groundwater protection requirements (e.g., monitoring, liners) that are determined necessary by the permitting authority.]

Part V. Discharge Monitoring and Notification Requirements

A. Notification of Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application

If, for any reason, there is a discharge of pollutants to waters of the United States, the permittee is required to make immediate oral notification within 24 hours to the **[PERMITTING AUTHORITY (CONTACT NUMBER)]** and notify the **[PERMITTING AUTHORITY]** in writing within 5 working days of the discharge from the facility. In addition, the permittee shall keep a copy of the notification submitted to the **[PERMITTING AUTHORITY]** together with the other records required by this permit. The discharge notification shall include the following information:

1. A description of the discharge and its cause, including a description of the flow path to the receiving waterbody and an estimate of the flow and volume discharged.
2. The period of noncompliance, including exact dates and times, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge.

B. Monitoring Requirements for All Discharges from Retention Structures

If any overflow or other discharge of pollutants occurs from a manure and/or wastewater storage or retention structure, whether or not authorized by this permit, the **[PERMITEE]** shall take the following actions:

1. All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, ammonia nitrogen phosphorus,

fecal coliform, 5-day biochemical oxygen demand (BOD5), total suspended solids, pH, and temperature. The discharge must be analyzed in accordance with approved EPA methods for water analysis listed in 40 CFR Part 136. ***[The permitting authority may specify additional parameters that are to be analyzed (e.g., metals).]***

2. Record an estimate of the volume of the release and the date and time.
3. ***[The permitting authority should insert the specific procedures that are to be followed by the permittee in collecting these samples. The permitting authority should also specify the time frame for reporting the results of the analyses.]*** The discharge must be collected in accordance with approved EPA methods for water analysis listed in 40 CFR Part 136.
4. If conditions are not safe for sampling, the permittee must provide documentation of why samples could not be collected and analyzed. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricane, tornadoes, electrical storms, and such). However, once dangerous conditions have passed, the permittee shall collect a sample from the retention structure (pond or lagoon) from which the discharge occurred.

C. General Inspection, Monitoring, and Record-Keeping Requirements

The permittee shall inspect, monitor, and record the results of such inspection and monitoring in accordance with Table V-A.

Table V-A. NPDES Large CAFO Permit Record-Keeping Requirements

Parameter	Units	Frequency
Permit and Nutrient Management Plan <i>(Note: Required by the NPDES CAFO Regulation—applicable to all CAFOs)</i>		
The CAFO must maintain on-site a copy of the current NPDES permit, including [SPECIFY MECHANISM TO IDENTIFY SITE-SPECIFIC TERMS] .	N/A	Maintain at all times
The CAFO must maintain on-site a current, site-specific NMP that reflects existing operational characteristics. The operation must also maintain on-site all necessary records to document that the NMP is being properly implemented with respect to manure and wastewater generation, storage and handling, and land application. In addition, records must be maintained that the development and implementation of the NMP is in accordance with the minimum practices defined in 40 CFR part 122.42(e).	N/A	Maintain at all times

Table V-A. NPDES Large CAFO Permit Record-Keeping Requirements *(continued)*

Parameter	Units	Frequency
Soil and Manure/Wastewater Nutrient Analysis <i>(Note: Required by the CAFO ELG—applicable to Large CAFOs)</i>		
Analysis of manure, litter, and process wastewater to determine nitrogen and phosphorus content. ^a	ppm Pounds/ton	At least annually after initial sampling
Analysis of soil in all fields where land application activities are conducted to determine phosphorus content. ^a	ppm	At least once every 5 years after initial sampling
Operation and Maintenance <i>(Note: Required by the CAFO ELG—applicable to Large CAFOs)</i>		
Visual inspection of all water lines	N/A	Daily ^b
Documentation of depth of manure and process wastewater in all liquid impoundments	Feet	Weekly
Documentation of all corrective actions taken. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction.	N/A	As necessary
Operation and Maintenance <i>(Note: Required by the CAFO ELG—applicable to Large CAFOs)</i>		
Documentation of animal mortality handling practices	N/A	As necessary
Design documentation for all manure, litter, and wastewater storage structures including the following information:		
• Volume for solids accumulation	Cubic yards/ gallons	Once in the permit
• Design treatment volume	Cubic yards/ gallons	term unless revised
• Total design storage volume ^c	Cubic yards/ gallons	
• Days of storage capacity	Days	
Documentation of all overflows from all manure and wastewater storage structures including: <i>(Note: Required by the NPDES Regulation—applicable to all CAFOs)</i>		
• Date and time of overflow	Month/day/ year	Per event
• Estimated volume of overflow	Total gallons	Per event
• Analysis of overflow (as required by the permitting authority)	TBD	Per event

Table V-A. NPDES Large CAFO Permit Record-Keeping Requirements *(continued)*

Parameter	Units	Frequency
Land Application <i>(Note: Required by the CAFO ELG—applicable to Large CAFOs)</i>		
For each application event where manure, litter, or process wastewater is applied, documentation of the following by field:		
• Date of application	Month/day/ year	Daily
• Method of application		Daily
• Weather conditions at the time of application and for 24 hours before and after application	N/A	Daily
• Total amount of nitrogen and phosphorus applied ^d	Pounds/acre	Daily
Documentation of the crop and expected yield for each field	Bushel/acre	Seasonally
Documentation of the actual crop planted and actual yield for each field	Bushel/acre	Seasonally
Documentation of test methods and sampling protocols used to sample and analyze manure, litter, and wastewater and soil.	N/A	Once in the permit term unless revised
Documentation of the basis for the application rates used for each field where manure, litter, or wastewater is applied.	N/A	Once in the permit term unless revised
Documentation showing the total nitrogen and phosphorus to be applied to each field including nutrients from the application of manure, litter, and wastewater and other sources	Pounds/acre	Once in the permit term unless revised
Documentation of manure application equipment inspection	N/A	Seasonally
Manure Transfer <i>(Note: Required by the NPDES CAFO Regulation—applicable to Large CAFOs)</i>		
For all manure transfers the CAFO must maintain the following records:		
• Date of transfer	N/A	As necessary
• Name and address of recipient	N/A	As necessary
• Approximate amount of manure, litter, or wastewater transferred	Tons/gallons	As necessary

Notes:

- a. For the specific analyses to be used, see the state nutrient management technical standard.
- b. Visual inspections should take place daily during the course of normal operations. The completion of such inspection should be documented in a manner appropriate to the operation. Some operations might wish to maintain a daily log. Other operations might choose to make a weekly entry, when they update other weekly records that required daily inspections have been completed.
- c. Total design volume includes normal precipitation less evaporation on the surface of the structure for the storage period, normal runoff from the production area for the storage period, 25-year, 24-hour precipitation on the surface of the structure, 25-year, 24-hour runoff from the production area, and residual solids.
- d. Including quantity/volume of manure, litter, or process wastewater applied and the basis for the rate of phosphorus application.

D. Additional Monitoring Requirements

[This section is to be used by the permitting authority to specify any additional monitoring and analysis that the permittee is to perform.]

1. Additional monitoring for some high risk operations: Upon notification by **[PERMITTING AUTHORITY]**, the permittee may be required to conduct ambient monitoring of surface or groundwater or both. For example, facilities with historical compliance problems, especially large facilities, facilities with significant environmental concerns, or facilities impacting impaired waterbodies. *[The permitting authority should establish appropriate ambient surface and groundwater monitoring requirements in the NPDES permit.]*
2. Upon request by **[PERMITTING AUTHORITY]**, the permittee may be required to collect and analyze samples including but not limited to soils, surface water, groundwater, or stored waste in a manner and frequency specified by **[PERMITTING AUTHORITY]**.

Part VI. Annual Reporting Requirements

[This example permit includes the minimum information required by the NPDES regulations. The permitting authority can use its discretion concerning additional information required to be submitted with the annual report.]

- A. The permittee must submit an annual report to the permitting authority by [Date] of each year.
- B. The annual report must include the following information:
[The permitting authority can use its discretion and authority to request additional information from the permittee. The permitting authority might wish to provide an example of the specific format for the annual report. An example report is included in the NPDES CAFO Permit Writer Guidance.]
 1. The number and type of animals, whether in open confinement or housed under roof.
 2. Estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons).
 3. Estimated amount of total manure, litter, and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons).
 4. Total number of acres for land application covered by the NMP.
 5. Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months.
 6. Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume.

7. A statement indicating whether the current version of the CAFO's NMP was developed or approved by a certified nutrient management planner.
8. Actual crops planted and actual yields for each field for the preceding 12 months.
9. Results of all samples of manure, litter or process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land applied.
10. Results of calculations conducted in accordance with Part III.A.6.a of this permit (for the Linear Approach) and Part III.A.6.b of this permit (for the Narrative Rate Approach).
11. Amount of manure, litter, and process wastewater applied to each field during the preceding 12 months.
12. For CAFOs using the Narrative Rate Approach to address rates of application:
 - i. The results of any soil testing for nitrogen and phosphorus conducted during the preceding 12 months.
 - ii. The data used in calculations conducted in accordance with Part III.A.3.h of this permit.
 - iii. The amount of any supplemental fertilizer applied during the preceding 12 months.

Part VII. Standard Permit Conditions

A. General Conditions

1. In accordance with the provisions of 40 CFR Part 122.41 *et. seq.*, this permit incorporates by reference all conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (the Act) and all applicable regulations.
2. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual NPDES permit.
3. The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
4. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. The issuance of this permit does not convey any property rights of any sort, 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/tribal or local laws or regulations.
6. The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority might request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the permitting authority, on request, copies of records required to be kept by this permit.
7. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. 1001.
8. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state/tribal law or regulation under authority preserved by section 510 of the Act.
9. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
10. Bypass
 - a. *Definitions*
 - i. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - ii. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - b. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. Those bypasses are not subject to Parts VII.A.10.c. and 10.d.of this permit.
 - c. *Notice*

- i. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - ii. *Unanticipated bypass.* The permittee shall submit notice of unanticipated bypass as required Part VII.D.5. of this permit (24-hour notice).
- d. *Prohibitions of bypass.*
- i. Bypass is prohibited, and the permitting authority may take enforcement action against a permittee for bypass, unless the following are true:
 - Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
 - There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. That condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance.
 - The permittee submitted notices as required under Part VII.A.10.c of this permit.
 - ii. The permitting authority may approve an anticipated bypass, after considering its adverse effects, if the permitting authority determines that it will meet the three conditions listed above in Part VII.A.10.d.(i) of this permit.

11. Upset

- a. *Definition.* Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part VII.A.11.c. of this permit are met.
- c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence of the following:
 - i. An upset occurred and that the permittee can identify the cause(s) of the upset.
 - ii. The permitted facility was at the time being properly operated.

- iii. The permittee submitted notice of the upset as required in Part VII.D.5 of this permit (24-hour notice).
 - iv. The permittee complied with any remedial measures required under Part VII.A.14 of this permit (duty to mitigate).
- d. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
12. *Duty to reapply.* If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.
13. *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.
14. *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.
15. *Inspection and entry.* The permittee shall allow the permitting authority, or an authorized representative (including an authorized contractor acting as a representative of the permitting authority), upon presentation of credentials and other documents as may be required by law, to do the following:
- a. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.
 - d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

B. Proper Operation and Maintenance

The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 5 years from the date of the sample, measurement, report, or application. That period may be extended by request of the permitting authority at any time.
3. Records of monitoring information shall include the following:
 - a. The date, exact place, and time of sampling or measurements.
 - b. The individual(s) who performed the sampling or measurements.
 - c. The date(s) analyses were performed.
 - d. The individual(s) who performed the analyses.
 - e. The analytical techniques or methods used.
 - f. The results of such analyses.
4. The permittee shall follow the following monitoring procedures:
 - a. Any required monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
 - b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to ensure accuracy of measurements and shall maintain appropriate records of such activities.
 - c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to ensure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.
5. INSERT MONITORING REPORTS STANDARD CONDITION 40 CFR part 122.41(l)(4) HERE.

D. Reporting Requirements

1. The permittee shall give notice to the permitting authority as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when any of the following are true:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR part 122.29(b).

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. The notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's manure use or disposal practices, and such alteration, addition, or change could justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an NMP.
2. The permittee shall give advance notice to the **[PERMITTING AUTHORITY]** of any planned physical alterations or additions or changes in activity that could result in noncompliance with requirements in this permit.
3. This permit is not transferable to any person except after notice to the **[PERMITTING AUTHORITY]**. The **[PERMITTING AUTHORITY]** may require modification or revocation and reissuance of the permit to change the name or the permittee and incorporate such other requirements as might be necessary under the Act.
4. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date.
5. The permittee shall report any noncompliance that could endanger human health or the environment. Any information must be provided orally to **[PERMITTING AUTHORITY CONTACT INFORMATION]** within 24 hours from the time that the permittee becomes aware of the circumstances. A written submission shall also be provided to **[PERMITTING AUTHORITY]** within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:
 - a. A description of the noncompliance and its cause.
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue.
 - c. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
6. The following shall be included as information, which must be reported within 24 hours:
 - a. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - b. Any upset that exceeds any effluent limitation in the permit.
 - c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the permitting authority in the permit to be reported within 24 hours.

The permitting authority may waive the written report on a case-by-case basis for reports under the above if the oral report has been received within 24 hours.

7. The permittee shall report all instances of noncompliance not reported under above and of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Part VII.D.6 of this permit.
8. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the **[PERMITTING AUTHORITY]**, the permittee shall promptly submit such facts or information to the **[PERMITTING AUTHORITY]**.

E. Signatory Requirements

All applications, reports, or information submitted to the **[PERMITTING AUTHORITY]** shall be signed and certified consistent with 40 CFR part 122.22:

1. All notices of intent shall be signed as follows:
 - a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means either of the following:
 - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
 - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: By a general partner for a partnership or the proprietor, respectively.
2. All reports required by the permit and other information requested by the **[PERMITTING AUTHORITY]** 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 following are true:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of

plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or any individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position.

- c. The written authorization is submitted to the **[PERMITTING AUTHORITY]**.

F. Certification

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 gather and evaluate 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.”

G. Availability of Reports

Any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

H. Penalties for Violations of Permit Conditions

1. Criminal Penalties:
 - a. Negligent violations: The Act provides that any person who negligently violates section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing those provisions in a permit issued under section 402 is subject to a fine of not less than \$2,750 nor more than \$27,500 per day of violation, or by imprisonment for not more than one year, or both.
 - b. Knowing violations: The Act provides that any person who knowingly violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act or any permit conditions implementing those provisions is subject to a fine of not less than \$5,500 nor more than \$55,000 per day of violation, or by imprisonment for not more than 3 years, or both.
 - c. Knowing endangerment: The Act provides that any person who knowingly violates sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury is

subject to a fine of not more than \$275,000, or by imprisonment for not more than 15 years, or both.

- d. False statements: The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$11,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$22,000 per day of violation, or by imprisonment of not more than 4 years, or by both. [See section 309(c)4 of the Clean Water Act.]
2. Civil penalties: The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation. [See section 309(d).]
 3. Administrative penalties: The Act provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated sections 301, 302, 306, 307, 308, 318, or 405 of the Act or a permit condition or limitation implementing these provisions, as follows [See section 309(g).]:
 - a. Class I penalty: Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.
 - b. Class II penalty: Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

Part VIII. Definitions

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (i) animals (other than aquatic 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 (ii) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Application means the U.S. Environmental Protection Agency standard national forms for seeking coverage under for an NPDES permit, including any additions, revisions or modifications to the forms; or forms approved by U.S. Environmental Protection Agency for use in *approved states*, including any approved modifications or revisions [e.g. for NPDES general permits, a written NOI pursuant to 40 CFR part 122.28; for NPDES individual permits, Form 1 and 2B pursuant to 40 CFR part 122.1(d)].

Concentrated animal feeding operation (CAFO) means an AFO that is defined as a Large CAFO or Medium CAFO by 40 CFR parts 122.23 (4) and (6), or that is designated as a CAFO.

Fecal coliform means the bacterial count (Parameter 1 at 40 CFR part 136.3 in Table 1A), which also cites the approved methods of analysis.

Grab sample means a sample that is taken from a wastestream on a one-time basis without consideration of the flow rate of the wastestream and without consideration of time.

Land application means the application of manure, litter, or process wastewater onto or incorporated into the soil.

Land application area means land under the control of a CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or could be applied.

Large CAFO means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories: (i) 700 mature dairy cattle, whether milked or dry; (ii) 1,000 veal calves; (iii) 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; (iv) 2,500 swine each weighing 55 pounds or more; (v) 10,000 swine each weighing less than 55 pounds; (vi) 500 horses; (vii) 10,000 sheep or lambs; (viii) 55,000 turkeys; (ix) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system; (x) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 82,000 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 5,000 ducks (if the AFO uses a liquid manure handling system).

Liquid manure handling system means a system that collects and transports or moves waste material with the use of water, such as in washing pens and flushing confinement facilities. That includes the use of water impoundments for manure or wastewater treatment.

Manure is defined to include manure, litter, bedding, compost and raw materials or other materials commingled with manure or set aside for land application or other use.

Medium CAFO means any AFO that stables or confines as many or more than the numbers of animals specified in any of the following categories: (i) 200 to 699 mature dairy cattle, whether milked or dry cows; (ii) 300 to 999 veal calves; (iii) 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; (iv) 750 to 2,499 swine each weighing 55 pounds or more; (v) 3,000 to 9,999 swine each weighing less than 55 pounds; (vi) 150 to 499 horses, (vii) 3,000 to 9,999 sheep or lambs, (viii) 16,500 to 54,999 turkeys, (ix) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; (x) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system) and either one of the following conditions are met (a) pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or

(b) pollutants are discharged directly into waters of the United States that originate outside and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Notice of Intent (NOI) is a form submitted by the owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). 40 CFR § 128.28(b)(2)(ii).

Process wastewater means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water that comes into contact with or is a constituent of raw materials, products, or by-products including manure, litter, feed, milk, eggs, or bedding.

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

Small CAFO means an AFO that is designated as a CAFO and is not a Medium CAFO.

Setback means a specified distance from waters of the United States or potential conduits to waters of the United States where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include open tile line intake structures, sinkholes, and agricultural well heads.

The Act means Federal Water Pollution Control Act as amended, also known as the Clean Water Act as amended, found at 33 U.S.C. 1251 *et seq.*

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 waters of the United States.

Waters of the United States means (1) all waters that are used, were used in the past, or might be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; (2) all interstate waters, including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, and streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) that are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or that are or could be used for industrial purposes by industries in interstate commerce; (4) all impoundments of waters otherwise defined as waters of the United States; (5) tributaries of waters identified in (1) through (4) of this definition; (6) the territorial sea; and (7) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in items (1) through (6) of this definition.

Appendix A. (Insert Form 2B/Notice of Intent or Appropriate State Form)

Appendix B. (Insert State Technical Standards for Nutrient Management)

Appendix C. Historic Properties Requirements

Appendix D. Notice of Termination