

APPENDIX J

EXAMPLE NPDES PERMIT FOR CAFOs

[NOTE: THIS EXAMPLE NPDES GENERAL PERMIT 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 to assist in the development of an NPDES CAFO permit.

**EXAMPLE
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 example NPDES General Permit for CAFOs is to recommend specific, permit requirements that are consistent with the NPDES CAFO regulations, CAFO ELG, and the NPDES CAFO Permit Writers' Guidance. EPA encourages permitting authorities to use the recommendations of the guidance manual and this example permit as appropriate. Minimum NPDES permitting requirements for CAFOs are defined at 40 Parts CFR 122, 123, and 412 and all other applicable CWA regulations]

In compliance with provisions of the Clean Water Act, 33 USC 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 FIVE (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, it should identify the type of facilities and/or the geographic area covered (e.g., watershed, state-wide, etc.) by the permit. If the general permit is restricted to specific animal types and/or to certain size facilities, these limitations should be identified here. When issuing individual permits, this section of the permit should identify the specific facility covered by the permit.]

B. Permit Coverage

Any operation which meets the definition of a CAFO at 40 CFR 122.23(b)(4) and 122.23(b)(6) and Part I.A of this permit. [INSERT STATE REGULATORY CITATION AS APPROPRIATE]

C. Eligibility for Coverage

Unless excluded from coverage in accordance with Paragraph D or F below, owners/operators of existing, currently operating animal feeding operations that are defined as CAFOs or designated as CAFOs by the permitting authority (See Part VI Definitions “CAFOs”) and 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 are authorized, under the terms and conditions of this permit, and upon the submission of a notice of intent *[The permitting authority should provide a copy of the NOI as an addendum to this permit.]* to gain coverage under this NPDES general permit.

Owners/operators may also seek to be excluded from coverage under this permit by (1) submitting to the Director (see Part I.E.4) a notice of termination form *[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 addendum to the permit.]* (see Addendum B); (2) by applying for an individual NPDES Permit in accordance with I.F; or (3) for Large CAFOs request a no potential to discharge determination from the Director as provided in 40 CFR 122.23(f).

[The permitting authority should specify an overall approach that defines how CAFOs are to be permitted. This 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, but 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. ***[Alternative 1]*** Owners/operators of CAFOs seeking to be covered by this permit (see Part I) must: (1) submit an NOI within **[NUMBER OF DAYS (*Note: This can extend to the expiration date of the permit*)]** days of the effective date of this permit; (2) comply with the requirements and conditions of the permit; and (3) develop and implement a nutrient management plan consistent with the schedule in Section III and the requirements of the permit.

1. ***[Alternative 2]*** Deadlines for Notification:
 - a. If you qualify for coverage as of the date the permit is issued you must submit your NOI or apply for an individual permit by **[DATE]**.
 - b. If you are required to seek coverage after the date this permit is issued you are required to submit an NOI or apply for an individual permit within **[NUMBER OF DAYS]** days of the date you qualify.
 - c. You are not prohibited for submitting a NOI after the applicable date in either a or b. If a late NOI is submitted, your authorization 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.

2. Contents of the Notice of Intent (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 location of the production area and the name and location of the nearest surface water;
 - e. 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);
 - f. Type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground 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.]***;
 - g. Total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
 - h. Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);
 - i. Estimated amounts of manure, litter and process wastewater transferred to other persons per year (tons/gallons); and

3. Signature Requirements: The NOI must be signed by the owner/operator or other authorized person in accordance with Part V.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]**.

F. Requiring an Individual Permit

1. The **[PERMITTING AUTHORITY]** may 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]** no later than 90 days after **[DATE OF PUBLICATION BY THE PERMITTING AUTHORITY OF THE GENERAL PERMIT IN THE FEDERAL REGISTER (WHERE EPA IS THE PERMITTING AUTHORITY), OR IN ACCORDANCE WITH STATE LAW (WHERE THE STATE IS 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 five (5) years from the effective date. The permittee must re-apply for permit coverage 180 days prior to the expiration of this permit. If this permit is not reissued or replaced prior to 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 prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

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

PART II. EFFLUENT LIMITATIONS AND STANDARDS

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 is to establish technology-based limitations based on 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.

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:

- a. 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. The design storage volume must reflect all wastes accumulated during the storage period; normal precipitation less evaporation during the storage period; normal runoff during the storage period; the direct precipitation from a 25-year, 24-hour storm event; the runoff from the 25-year, 24-hour storm event from the production area; residual solids after liquid has been removed; necessary freeboard to maintain structural integrity; and in the case of treatment lagoons, a minimum treatment volume. *[Note: The design standard for new sources under Subpart D of the CAFO ELG is a 100-year, 24-hour storm event.]*
- b. The production area is operated in accordance with the additional measures and records specific in section II.B of this permit.

2. Water Quality-based Effluent Limitations and Standards - Production Area

[PERMIT AUTHORITY TO SPECIFY APPLICABLE WATER QUALITY-BASED EFFLUENT LIMITATIONS.] *[The permit writer must ensure that the permit includes effluent limitations based on 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 122.44(d)] require permit limitations to control all pollutants which may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard.*

The permit writer may determine the need to establish more restrictive requirements for the

production area particularly for instances where the discharge is to 303(d) water bodies 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 may 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.]

3. Technology-based Effluent Limitations and Standards - Land Application Areas Under the Control of the CAFO Owner/Operator.

CAFOs subject to this permit, that land apply manure, litter, or process wastewater, must develop and implement a Nutrient Management Plan in accordance with the requirements specified below and in Parts III.A and III.B of this permit.

The nutrient management plan that is developed and implemented must incorporate the following requirements based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.

- a. Determination of application rates. Application rates for manure, litter, or process wastewater are to be developed that 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 DIRECTOR IN ACCORDANCE WITH 40 CFR 122.36.]** *[It is recommended that a complete copy of the standard established by the Director be included as an appendix to the permit.]* This technical standard specifies (1) the field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters and addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals and (2) includes appropriate flexibilities for the implementation of specific nutrient management practices to comply with the standard;
- b. Manure and soil sampling. Manure must be analyzed at least once annually for nitrogen and phosphorus content, and soil must be analyzed at least once every five years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater;
- c. Inspection of land application equipment for leaks. Periodically inspect equipment used for land application of manure, litter, or process wastewater for leaks;
- d. Land application setback requirements. No application of manure, litter, or process wastewater closer than 100 feet to any down-gradient water 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 to any down-gradient water of the United States, open tile intake structures, sinkholes, agricultural well heads, or other conduits to waters of the United States where applications of manure, litter, or process

wastewater are prohibited, may be utilized as an alternative to the 100-foot setback to meet this requirement.

[The CAFO ELG provides an alternative practices compliance alternative [412.4(c)(5)(ii)] to the 100-foot setback requirement specified in II.A.3.d of this example NPDES CAFO permit. The permittee would need to demonstrate to the permitting authority that the use of these alternative practices result in equivalent or better pollutant reductions than would be achieved by the use of the 100-foot setback. The permitting authority may limit the availability of these alternatives to only those CAFOs covered under an individual permit.]

- e. The maintenance of complete on-site records including the site-specific nutrient management plan documenting implementation of all required land application practices.

In addition to meeting the above ELG requirements (Part II.A), the permittee is required to comply with the additional measures specified in Part II. B and the special conditions established in Part III of this permit.

B. Additional Measures - Applicable to the Production Area

In addition to the requirements in II.A of this permit, the permittee must implement the following additional measures.

1. Weekly visual inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure.
2. Daily visual inspections of all water lines, including drinking water or cooling water lines.
3. Weekly inspections of the manure, litter, and process wastewater impoundments noting the level as indicated by an installed depth marker in all open surface liquid impoundments. Each depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event for the location of the permitted CAFO.
4. Timely correction of any deficiencies that are identified in daily and weekly inspections.
5. No disposal of animal mortalities in any liquid manure or process wastewater systems. Handle animal mortalities so as to prevent discharge of pollutants to surface water.
6. The maintenance of complete on-site records documenting implementation of all required additional measures for a period of five years.

C. 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. SPECIAL CONDITIONS

A. Nutrient Management Plan

1. Each CAFO covered by this permit shall develop and implement a site-specific nutrient management plan. The nutrient management plan shall specifically identify and describe practices that are to be implemented to assure compliance with the effluent limitations and standards and special conditions of this permit (Part II.A and Parts III.A and B). The nutrient management plan is to be developed in accordance with the following technical standard *[Incorporate or reference nutrient management technical standard established by the Director. Cross reference section II.A.3 of this permit.]*
2. The site-specific nutrient management plan at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards. In addition, the NMP must, as applicable:
 - a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
 - b. Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
 - c. Ensure that clean water is diverted, as appropriate, from the production area;
 - d. Prevent the 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 or contaminants;
 - 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;
 - g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
 - 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; and
 - i. Identify specific records that will be maintained to document the implementation and management of the minimum practices described in Part III.B.
3. The nutrient management plan shall be signed by the owner/operator or other signatory authority in accordance with Part VI.E (Signatory Requirements) of this permit.
4. Following the submission of the NOI, any CAFO covered by this NPDES general permit shall develop and implement a nutrient management plan in accordance with the following schedule **[SCHEDULE FOR DEVELOPING AND IMPLEMENTING THE NUTRIENT MANAGEMENT PLAN AND ANY INTERIM DATES FOR COMPLIANCE AND REPORTS]**. Owners/operators of new CAFOs must have a complete nutrient management plan **[NUMBER OF DAYS (Note: *But no later than December 31, 2006*)]** prior to commencement of operation.

5. A current copy of the nutrient management plan shall be kept on site in accordance with Part IV.C. of this permit and provided to the permitting authority upon request of the permitting authority. In addition a copy of the current NPDES permit is to be maintained on site.
6. The permittee must amend the nutrient management plan as necessary whenever the facility makes a substantive change in how it manages its operation, including the location, method, timing or frequency of land application so that the nutrient management plan reflects the current operational characteristics and practices of the CAFO.
7. There is to be no discharge of manure, litter, or process wastewater to a 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 storm water discharge. Where manure, litter, or process wastewater has been applied in accordance with a site-specific nutrient management plan, as specified in 122.42(e)(1), 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 storm water discharge.

B. NPDES Permit for CAFOs Minimum Practices

The permittee must develop and implement the practices listed in Table III-A, to the extent they are applicable. Requirements specified in Parts II.A and B and III of this permit must also be addressed.

Table III-A. NPDES CAFO Permit Minimum Practices (To be implemented as soon as possible, but no later than December 31, 2006.)
<p>ENSURE ADEQUATE STORAGE¹ CAPACITY</p> <p>Develop and implement specific practices and associated structures to ensure adequate storage capacity to achieve permit limitations including:</p> <ul style="list-style-type: none"> - Maintain sufficient capacity in liquid manure, wastewater, or storm water storage structures to ensure compliance with all permit requirements. - Store dry manure in production buildings or in storage facilities or otherwise storing it in such a way as to prevent polluted runoff. - Provide adequate storage capacity to ensure compliance with the nutrient management technical standard approved by the permitting authority. - Ensure proper operation and maintenance of all manure, wastewater, and storm water storage facilities. <p>¹Storage includes but is not limited to waste ponds and lagoons and other structures such as tanks (above and below ground) and staking facilities (concrete pad, walls, and a roof).</p>
<p>ENSURE PROPER MANAGEMENT OF MORTALITIES</p> <p>Handle and dispose of dead animals in a manner that prevents contamination of waters of the United States.</p>
<p>DIVERSION OF CLEAN WATER</p> <p>Develop and implement management practices to divert clean water from the production area. Clean water includes rain falling on the roofs of facilities, runoff from adjacent land, and other sources. If clean water is not diverted from coming into contact with manure or process wastewater it must be collected in accordance with permit requirements.</p>

Table III-A. NPDES CAFO Permit Minimum Practices (To be implemented as soon as possible, but no later than December 31, 2006.)
<p>PREVENTION OF DIRECT CONTACT OF ANIMALS WITH WATERS OF THE UNITED STATES</p> <p>Develop and implement appropriate controls to prevent access of animals to waters of the United States in the production area.</p>
<p>CHEMICAL HANDLING</p> <p>Develop and implement controls to prevent the inappropriate introduction of chemicals into the manure, wastewater, and storm water storage and handling system. Examples include pesticides, hazardous and toxic chemicals, and petroleum products and by-products.</p>
<p>CONSERVATION PRACTICES TO CONTROL NUTRIENT LOSS</p> <p>For land application areas under the control of the CAFO operator develop and implement practices that are sufficient to minimize the discharge of pollutants to waters of the United States. These practices may include, but are not limited to residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, and diversions.</p>
<p>PROTOCOLS FOR MANURE AND SOIL TESTING</p> <p>Identify and implement specific manure, wastewater and soil sample collection and analysis protocols to be used in developing and implementing the nutrient management plan. At a minimum the protocol is to specify the collection and analysis of manure, litter, and other process waste waters annually for nutrient content, including nitrogen and phosphorus. The protocol is to specify the collection and analysis of soil samples for phosphorus content at least once every 5 years for all fields under the control of the CAFO operator where manure and wastewater may be applied. In all cases the sampling frequency for both manure, litter and wastewater and soil is to be consistent with the technical standard for nutrient management established by the Director.</p>
<p>PROTOCOLS FOR THE LAND APPLICATION OF MANURE AND PROCESS WASTEWATER</p> <p>Develop and implement protocols to apply manure, litter, and process wastewater in accordance with the technical standard for nutrient management established by the Director.</p>
<p>RECORD KEEPING</p> <p>Maintain all records necessary to document the development and implementation of the nutrient management plan and compliance with the minimum practices defined in the permit. In addition, records must be maintained that document compliance with the effluent limitations specified in the permit.</p>

C. 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 twelve 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. Prior to restoration of 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 CITE TO SPECIFIC STANDARDS AS DETERMINED TO BE APPLICABLE BY THE PERMITTING AUTHORITY]**. Consistent with this standard the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's nutrient management plan, 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 Structures

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 nutrient management plan, or document its transfer from the permitted facility in accordance with off-site transfer requirements specified in this permit (See Part III.D), unless otherwise authorized by the **[Permitting Authority]**.

D. Requirements for the Transfer of Manure, Litter, and Process Wastewater To Other Persons

[The revised NPDES CAFO regulations and require operations which meet the definition of a Large CAFO to meet off-site transfer requirements. Permitting authorities should utilize BPJ to determine the specific off-site transfer requirements applicable to Medium and Small CAFOs]

- 1. In cases where CAFO-generated manure, litter, or process wastewater is sold or given away the permittee must comply with the following conditions:
 - a. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation;
 - b. Record the name and address of the recipient;
 - c. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater; and

- d. These records are to be retained on-site, for a period of five years, and be submitted to the permitting authority upon request.

E. Additional Special Conditions

[This section is to be used by the NPDES 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 (i.e., monitoring, liners, etc.) that are determined necessary by the NPDES permitting authority.]

PART IV. 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 a water 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 five (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 water body and an estimate of the flow and volume discharged.
2. The period of non-compliance, 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

In the event of any overflow or other discharge of pollutants from a manure and/or wastewater storage or retention structure, whether or not authorized by this permit, the following actions shall be taken:

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, five-day biochemical oxygen demand (BOD₅), total suspended solids, pH, and temperature. The discharge is to 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 is to 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, etc.). 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 IV–A:

Table IV-A NPDES Large CAFO Permit Record Keeping Requirements		
Parameter	Units	Frequency
Nutrient Management Plan (<i>Note: Required by the NPDES CAFO Regulation – applicable to all CAFOs</i>)		
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 are to be maintained that the development and implementation of the NMP is in accordance with the minimum practices defined in 40 CFR 122.42(e).	N/A	Maintain at all times
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. ¹	ppm Pounds/ton	Conduct initial sampling, then at least annually.
Analysis of soil in all fields where land application activities are conducted to determine phosphorus content. ¹	ppm	Conduct initial sampling, then at least once every 5 years.
Operation and Maintenance (<i>Note: Required by the CAFO ELG – applicable to Large CAFOs</i>)		
Visual inspection of all water lines	N/A	Daily ²
Documentation of depth of manure and process wastewater in all liquid impoundments	Feet	Weekly
Documentation of all corrective actions taken	N/A	As necessary
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 term unless revised
% Design treatment volume	Cubic yards/gallons	
% Total design storage volume ³	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
Documentation of manure application equipment inspection	N/A	Seasonally

Table IV-A NPDES Large CAFO Permit Record Keeping Requirements		
Parameter	Units	Frequency
Land Application (Note: Required by the CAFO ELG – applicable to Large CAFOs)		
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	N/A	Daily
% Weather conditions at the time of application and for 24 hours prior to and following application	N/A	Daily
% Total amount of nitrogen and phosphorus applied ⁴	Pounds/acre	Daily
Documentation of the crop and expected 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
Manure Transfer (Note: Required by the NPDES CAFO Regulation – applicable to Large CAFOs)		
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
¹ Refer to the state nutrient management technical standard for the specific analyses to be used. ² 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 may wish to maintain a daily log. Other operations may choose to make a weekly entry, when they update other weekly records, that required daily inspections have been completed. ³ 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. ⁴ 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 and/or groundwater. For example, facilities with historical compliance problems, especially large facilities, facilities with significant environmental concerns, or facilities impacting impaired water bodies. *[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, ground water, and/or stored waste in a manner and frequency specified by **[PERMITTING AUTHORITY]**.

PART V. 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.]

1. The permittee must submit an annual report to the Director by [DATE] of each year.
2. The annual report must include the following information:
[The permitting authority can utilize its discretion and authority to request additional information from the permittee. The permitting authority may 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.]
 - a. The number and type of animals, whether in open confinement or housed under roof;
 - b. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
 - c. Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);
 - d. Total number of acres for land application covered by the nutrient management plan;
 - e. 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;
 - f. 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; and
 - g. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

PART VI. 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, (hereinafter known as the “Act”) as well as 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 these 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 Director, within a reasonable time, any information which the Director may 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 Director, upon 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. Section 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.

B. Proper Operation and Maintenance

1. It shall not be a defense for a permittee in an enforcement action to plead that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
2. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
3. The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. The permittee shall allow the **[PERMITTING AUTHORITY]** or U.S. EPA, or an authorized representative of **[PERMITTING AUTHORITY]** or U.S. EPA, upon the presentation of credentials and other documents as may be required by law, to:
 - 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, and
 - d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. 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 five years from the date of the sample, measurement, report, or application. This period may be extended by request of the permitting authority at any time.
4. Records of monitoring information shall include:
 - 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; and
 - f. The results of such analyses.

5. 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 insure 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 insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

D. Reporting Requirements

1. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - 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 § 122.29(b); or
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under § 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 may 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 a nutrient management plan.
2. The permittee shall give advance notice to the **[PERMITTING AUTHORITY]** of any planned physical alterations or additions or changes in activity which may 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 may be necessary under the CWA.
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 schedule date.
5. The permittee shall report any noncompliance that may endanger human health or the environment. Any information must be provided orally to within 24 hours from the time that the permittee becomes aware of the circumstances to **[PERMITTING AUTHORITY CONTACT INFORMATION]**. A written submission shall also be provided to **[PERMITTING AUTHORITY]** within five (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; and
 - 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 which exceeds any effluent limitation in the permit.
 - b. Any upset which exceeds any effluent limitation in the permit.
 - c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
- The Director 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 D.6.
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]**, it 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 §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:
 - 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; or
 - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which 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; or
 - 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:

- 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; and,
- 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 three 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 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 two 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 four 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 VII. 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 EPA standard national forms for seeking coverage under for an NPDES permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in “approved States,” including any approved modifications or revisions [e.g. for NPDES general permits, a written “notice of intent” pursuant to 40 CFR 122.28; for NPDES individual permits, Form 1 and 2B pursuant to 40 CFR 122.1(d)].

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

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

Grab sample means a sample which is taken from a waste stream on a one-time basis without consideration of the flow rate of the waste stream 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 an CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

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 of pens and flushing of confinement facilities. This would include the use of water impoundments for manure and/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 which originate outside of 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 which comes into contact with or is a constituent of raw materials, products, or byproducts 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, milkrooms, 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 which separate uncontaminated storm water. 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 but are not limited to: 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 USC 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 currently used, were used in the past, or may 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) which 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, which 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.

ADDENDUM A - (Insert Form 2B/Notice of Intent or Appropriate State Form)

ADDENDUM B - (Insert State Technical Standards for Nutrient Management)