



REPORT

CAFOS: WHAT WE DON'T KNOW IS HURTING US

SAMPLE STATE POLLUTION CONTROL PERMIT



About NRDC

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**GENERAL PERMIT FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs) AND
STATE CONFINED ANIMAL FEEDING OPERATIONS (SCAFOS)
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

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) and state confined animal feeding operations (SCAFOS), are only authorized to discharge in accordance with this permit and must operate their facility in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein. Discharges that may cause or contribute to a violation of a water quality standard are not authorized by this permit. Any person owning or operating a CAFO or SCAFO, as defined herein, has a duty to seek coverage under the general permit (NPDES number 01) or an individual permit.

A complete copy of the general permit is available for inspection at **[Permitting Authority Address]** and online at **[Permitting Authority Website]**.

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

This permit takes effect immediately on the date of issuance. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules.

This permit and the authorization to discharge under the NPDES shall expire at midnight on **[Date 5 Years After the Date Below]**.

Signed this **[Day]** of **[Month]**, **[Year]**.

[Seal: Permitting Authority—Official]

Definitions

100-year 24-hour precipitation event: an event with a probable recurrence interval of once in 100 years as defined by the National Oceanographic and Atmospheric Administration (NOAA) Atlas 14 Point Precipitation Frequency Estimates.

Certificate of Coverage (COC): a document issued by [Permitting Authority] that grants coverage under this general permit.

Discharge: (when used without qualification) the discharge of a pollutant. “Discharge of a pollutant” is defined at 40 CFR §122.2.

Fecal coliform: the number of bacteria per 100 milliliters or number per gram of dry weight, using Parameter 1 at 40 CFR part 136.3 in Table 1A, which also cites the approved methods of analysis.

Grab sample: a sample 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.

Integrator: any person engaged in the business of obtaining poultry, swine, livestock, or their products or by-products, under a production contract including but not limited to any grow-out contract, marketing agreement, or other arrangement under which a grower raises and cares for live poultry, swine, or livestock for delivery, in accordance with that person’s instructions.

Land application: the application of manure, litter, or process wastewater onto soil or their incorporation into soil.

Land application area: 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.

Manure: manure, litter, bedding, compost, and raw materials or other materials that come into contact with manure.

Notice of Intent (NOI): a form submitted by the owner/operator seeking coverage under a general permit. It requires the owner/operator to submit the necessary information 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 water bodies that manure may reach through accidental release, overflow, or runoff from the production area or land application area. 40 CFR § 128.28(b)(2)(ii).

Nutrient Management Plan (NMP): a written document containing the minimum elements necessary to manage manure, litter, and process wastewater from operations covered by this permit in accordance with its terms and conditions. See Part III for specific plan elements.

Process wastewater: water directly or indirectly used in, or resulting from, 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: the part of an AFO that is not the land application area. It includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, 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. Production areas also include any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Setback: a specified distance from Waters of the State or potential conduits to Waters of the State where 4, litter, and process wastewater may not be applied to land. Examples of conduits to surface waters include open tile line intake structures, sinkholes, and agricultural wellheads.

Vegetated buffer: a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of a field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants leaving the field and reaching Waters of the State.

Waters of the State: lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the ocean within the territorial limits of the State of [State], and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or affect a junction with natural surface or underground waters) that are wholly or partially within or bordering the state or within its jurisdiction, and all Waters of the United States under the current definition given it by 40 CFR 230.3(s).

Part I. Permit Area and Coverage

A. FACILITIES REQUIRING PERMIT COVERAGE

It is the policy of this State to protect the quality of groundwater and surface **waters of the State** of [State] by preventing animal wastes from discharging into or otherwise reaching **waters of the State** of [State]. To implement this policy, any person who owns or operates a concentrated animal feeding operation (CAFO) or state confined animal feeding operation (SCAFO) defined in Part

I.B.3-4 below must obtain a permit from [**Permitting Authority**]. Coverage is required regardless of discharge status for all CAFOs and SCAFOs within the State of [State] unless application is made for an individual permit or an individual permit is required by [**Permitting Authority**]. Except as provided herein, without holding a permit from [**Permitting Authority**], which permit shall specify applicable effluent limitations, a person may not construct, install, or operate any CAFO or SCAFO.

TABLE I: FACILITIES REQUIRING PERMIT COVERAGE

Types of CAFOs requiring permit coverage	STATE CONFINED		CONCENTRATED		
	<i>Confined in buildings or pens, or any facility with wastewater treatment works or any discharge to waters of the state</i>		<i>Stabled and confined or fed and maintained for total of 45 days or more in any 12-month period; and crops, vegetation, forage growth, or post-harvest residues not sustained in normal growing season in lot or facility</i>		
	<i>Small State Confined</i>	<i>Medium State Confined</i>	<i>Small Concentrated</i>	<i>Medium Concentrated</i>	<i>Large Concentrated</i>
mature dairy cows	<200	200-699	<200	200-699	≥700
veal calves	<300	300-999	<300	300-999	≥1,000
cattle	<300	300-999	<300	300-999	≥1,000
swine ≥ 55 lbs	<750	750-2,499	<750	750-2,499	≥2,500
swine < 55 lbs	<3,000	3,000-9,999	<3,000	3,000-9,999	≥10,000
horses	<150	150-499	<150	150-499	≥500
sheep or lambs	<3,000	3,000-9,999	<3,000	3,000-9,999	≥10,000
turkeys	<16,500	16,500-54,999	<16,500	16,500-54,999	≥55,000
chickens, any	900-8,999	9,000-29,999	n/a	n/a	n/a
ducks, any	1,000-9,999	10,000-29,999	n/a	n/a	n/a
chickens, including laying hens or broilers w/wet waste system	n/a	n/a	<9,000	9,000-29,999	≥30,000
laying hens w/dry waste system	n/a	n/a	<25,000	25,000-81,999	≥82,000
broiler chickens w/ dry waste system	n/a	n/a	<37,500	37,500-124,999	≥125,000
ducks w/other than wet waste system	n/a	n/a	<10,000	10,000-29,999	≥30,000
ducks w/wet waste system	n/a	n/a	<1,500	1,500-4,999	≥5,000
other animal type	As determined by [Permitting Authority]		Designated by [Permitting Authority]	n/a	n/a

B. PERMIT COVERAGE

I. ELIGIBILITY

Unless excluded from coverage in accordance with Part I.L.1-2 below (“Termination After Facility Closure” or “Termination and Requirement to Seek Individual Permit”), owners/operators of existing, currently operating CAFOs or SCAFOs (defined per Part I.B.2-4) are eligible for coverage under this general permit. Eligible CAFOs must 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 Part I.D). This permit only authorizes a CAFO’s/SCAFO’s discharges that occur after permit coverage is granted.

2. DEFINITION OF ANIMAL FEEDING OPERATION (AFO)

An animal feeding operation (AFO) is a lot or facility as defined by 40 CFR §122.23(b)(1). Two or more AFOs are considered to be a single AFO if they are: (a) within three miles of each other or if they use a common area or system for the disposal of wastes; and (b) under common ownership or functionally controlled by the same business entity, investors, or management company.

3. CONCENTRATED ANIMAL FEEDING OPERATION DEFINED

CAFOs are those facilities meeting the conditions of 40 CFR §122.23 (see Table 1 and Appendix A).

a. Large CAFOs: AFOs that meet the definition of a Large CAFO under 40 CFR §122.23(b)(4).

b. Medium CAFOs: AFOs that meet the definition of a Medium CAFO under 40 CFR §122.23(b)(6).

c. Small CAFOs: AFOs that meet the definition of a Small CAFO under 40 CFR §122.23(b)(9).

4. STATE CONFINED ANIMAL FEEDING OPERATION DEFINED

An AFO that does not qualify as a CAFO under 40 CFR §122.23 is a state confined animal feeding operation (SCAFO) if it meets one of the following definitions (see Table 1).

a. Medium SCAFOs

A medium state confined animal feeding operation (medium SCAFO) is defined as the concentrated confined feeding or holding of animals or poultry, in areas including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities, and fur farms;

- (i) In buildings or in pens; or
- (ii) That have wastewater treatment works; or
- (iii) That discharge any wastes into waters of the state; and
- (iv) The number of animals confined must be in one of the following ranges:

- (a) 200 to 699 mature dairy cows, whether milked or dry;
- (b) 300 to 999 veal calves;
- (c) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs;
- (d) 750 to 2,499 swine each weighing 55 pounds or more;
- (e) 3,000 to 9,999 swine each weighing less than 55 pounds;
- (f) 150 to 499 horses;
- (g) 3,000 to 9,999 sheep or lambs;
- (h) 16,500 to 54,999 turkeys;
- (i) 9,000 to 29,999 chickens;
- (j) 10,000 to 29,999 ducks.

b. Small SCAFOs

A small state confined animal feeding operation (small SCAFO) is defined as the concentrated confined feeding or holding of animals or poultry, in areas including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities, and fur farms;

- (i) In buildings or in pens; or
- (ii) That have wastewater treatment works; or
- (iii) That discharge any wastes into waters of the state; and
- (iv) The number of animals confined must be in one of the following ranges:
 - (a) 20 to 199 mature dairy cows, whether milked or dry;
 - (b) 30 to 299 veal calves;
 - (c) 30 to 299 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs;
 - (d) 75 to 749 swine each weighing 55 pounds or more;
 - (e) 300 to 2,999 swine each weighing less than 55 pounds;
 - (f) 15 to 149 horses;
 - (g) 300 to 2,999 sheep or lambs;
 - (h) 1,650 to 16,499 turkeys;
 - (i) 900 to 8,999 chickens;
 - (j) 1,000 to 9,999 ducks.

C. CERTIFICATE OF COVERAGE

In order to constitute a valid authorization to discharge, this permit must be complemented by a **Certificate of Coverage (COC)**

issued by [Permitting Authority], and copies of both must be kept at the permitted CAFO/SCAFO.

if the application requirements have been revised or if the information in the existing application is not current.

D. APPLICATION FOR COVERAGE

1. APPLICATION REQUIREMENTS

Owners/operators of CAFOs/SCAFOs seeking coverage under this permit must complete the following requirements.

a. Notice of Intent

The applicant shall submit a **Notice of Intent (NOI)** to be covered by this permit to the **Permitting Authority** at least 180 days prior to commencing operation (for a new facility); or within 60 days of the effective date of this permit or at least 180 days before the expiration of an active permit, whichever is later (for an existing facility). *[The permitting authority should provide a copy of the NOI as an appendix to this permit.]*

b. Nutrient Management Plan

The applicant shall submit a **Nutrient Management Plan (NMP)** with the **NOI** that meets the requirements of 40 CFR Parts 122 and 412, where applicable, and Part III of this permit.

c. Facilities Covered by Individual Permit

For facilities that have submitted an application for coverage under an individual permit before issuance of the general permit, the applicant shall (1) submit an **NOI** for coverage under the general permit, or (2) submit an updated application for coverage under an individual permit

d. Signature

The **NOI** and **NMP** shall list the owner, operator, and integrator (as applicable) and must be signed pursuant to the requirements in Part VII.D

e. NOI Mailing

The applicant shall send a signed copy of the **NOI** and **NMP** via certified mail to: **[Permitting Authority Mailing Address]**.

f. Adjacent Landowner Notice

Within 7 days of submission of the **NOI** to **[Permitting Authority]**, applicant shall provide notice in the form of a complete copy of the application to each adjacent landowner, and any additional landowner within one mile of the facility, by certified mail.

g. Soil and Water Conservation District Office Notice

Within 7 days of submission of the **NOI** to **[Permitting Authority]**, applicant shall submit a copy of the application to each municipality within three miles of the facility, the county where the facility is located, and the local Soil and Water Conservation District Office.

2. REVIEW BY [PERMITTING AUTHORITY]

Upon receipt, **[Permitting Authority]** will review the **NOI** and **NMP** to ensure that the **NOI** and **NMP** are complete. **[Permitting Authority]** may request additional information from the applicant if additional information is necessary

TABLE 2: APPLICATIONS FOR COVERAGE AND PUBLIC PARTICIPATION REQUIREMENTS

	New Facilities	Existing Permitted Facilities Seeking Coverage	Existing Unpermitted Facilities Seeking Coverage	Existing Permitted Facilities Seeking Change to NMP
<i>Deadline to submit NOI and accompanying materials to [Permitting Authority]</i>	180 days before commencing operation	Later of: 1) 60 days from permit publication, and 2) 180 days before existing coverage expires	60 days from permit publication	n/a
<i>Status pending certification of coverage</i>	Not allowed to commence operation	Coverage extended under pre-existing permit	Provisional coverage under new general permit conditional on adherence to permit terms	n/a
<i>Applicant notifies adjacent landowners, municipalities, Soil and Water Conservation District</i>	Within 7 days of filing application			
<i>[Permitting Authority] publishes notice on Web and via interested parties email list</i>	Within 30 days of receiving application			
<i>Comment period</i>	60 days, beginning with [Permitting Authority] notice			
<i>Public hearing, on request of 10 or more individuals or their representatives</i>	At least 30 days from [Permitting Authority] notice of public hearing			

to complete the **NOI** and **NMP** or to clarify, modify, or supplement previously submitted material. If [**Permitting Authority**] makes a preliminary determination that the **NOI** and **NMP** are complete, the **NOI** and the **NMP** shall be made available for a 60 day public review and comment period, which shall include publication of all pending **NOIs** and related **NMPs** on the [**Permitting Authority**] website.

E. PUBLIC NOTICE AND PARTICIPATION REQUIREMENT

Prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to an **NMP**, [**Permitting Authority**] shall provide public notice and participation as specified below.

1. PUBLIC NOTICE PROCEDURES

Within 30 days of receipt of a request for permit coverage, request for renewal of permit coverage, or proposed substantial change to an **NMP**, [**Permitting Authority**] shall provide public notice of a comment period of at least 60 days by:

1. Posting notice on the [**Permitting Authority**] website; and
2. Emailing notice to an interested parties list maintained by [**Permitting Authority**], access to which list shall be open to any member of the public who requests it.

2. CONTENTS OF PUBLIC NOTICE

Any public notice issued under this section shall include, at a minimum, the following information:

1. Name of operation
2. Name of operator or owner (if different from operator)
3. Name of integrator (if applicable)
4. Mailing address and telephone number
5. Physical address of operation
6. Type of operation
7. Number and type of animals
8. **NMP** (proposed or active) summary
9. Overview of proposed substantial change (if applicable)
10. Link to a digital copy of the full contents of the **NMP**

3. PUBLIC HEARING

A public hearing shall be scheduled if written requests for a public hearing are received during the comment period from at least 10 persons or from an organization or organizations representing at least 10 persons. If a hearing is scheduled, [**Permitting Authority**] shall provide at least 30 days' notice before the hearing is held. The public comment period shall remain open for additional comments for at least 7 days after the public hearing.

4. DUTY TO RESPOND TO PUBLIC COMMENTS

Prior to granting permit coverage, renewing permit coverage, or approving proposed substantial changes to an **NMP**, [**Permitting Authority**] shall respond to any substantive comments received, either in writing or during a public hearing.

5. INDIVIDUAL STANDING TO CHALLENGE PERMIT ISSUANCE

Upon final determination by [**Permitting Authority**] to grant a **COC** under this permit, any previously engaged party (e.g., through the public comment process or public hearing) shall have standing to challenge the grant of coverage in a case hearing.

F. INCORPORATION OF NMP INTO PERMIT TERMS AND CONDITIONS

When [**Permitting Authority**] issues a **COC** to the CAFO/SCAFO owner or operator under this general permit, the **NMP** shall be incorporated as terms and conditions of the permit for the CAFO/SCAFO. The permitting authority will notify the CAFO/SCAFO owner or operator in a **COC** letter or permit modification letter that coverage has been authorized. Each CAFO/SCAFO covered by this permit must comply with the CAFO/SCAFO's site-specific **NMP**, as incorporated into the permit.

G. INDIVIDUAL PERMITS

1. AGENCY REQUIREMENT TO OBTAIN INDIVIDUAL PERMIT

[**Permitting Authority**] may at any time require any facility covered by this general permit to obtain an individual NPDES permit, including but not limited to when any of the following circumstances apply:

1. The facility is a significant contributor to pollution as determined by [**Permitting Authority**] on a case-by-case basis;
2. The facility is not complying, or has not complied, with the conditions of this general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of waste applicable to the point source discharge;
4. Effluent standards and limitations are promulgated for point source discharges subject to this permit;
5. [**Permitting Authority**] determines that the criteria under which the permit was issued no longer apply.

[**Permitting Authority**] will notify the owner or operator, in writing, that an application for an individual permit is required within 60 (sixty) days. Coverage of the facility under this general NPDES permit shall terminate automatically when: (1) the operator fails to submit the required individual NPDES permit application within the defined time frame; or (2) coverage under the individual NPDES permit is granted by [**Permitting Authority**].

2. OPERATOR REQUESTS FOR EXCLUSION

Any owner/operator required to seek coverage under this general 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 by submitting [**Specify individual permit application form(s)**] to [**Permitting Authority**]. If coverage is granted under an individual NPDES permit to an owner/operator otherwise subject to this general permit, coverage under this general permit shall be automatically terminated on the effective date of coverage under an 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).

H. PERMIT EXPIRATION

This general permit will expire 5 years from its 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 Part I.L.

I. CHANGE IN OWNERSHIP

If a change in the ownership of a facility covered under this permit occurs, coverage under the existing permit will transfer if:

1. NOTIFICATION OF [PERMITTING AUTHORITY]

The current permittee must notify [**Permitting Authority**] in writing at least 30 days prior to the effective transfer date.

2. TRANSFER OF RESPONSIBILITY

The notice must include a written agreement between the existing and new permittees containing a specific transfer date for permit responsibility, coverage, and liability.

3. RIGHT TO MODIFY OR REVOKE

[Permitting Authority] may notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit.

4. MODIFICATION OF NMP

If the new CAFO/SCAFO owner or operator seeks to modify any part of the **NMP**, the revised **NMP** shall be resubmitted to [Permitting Authority] and reviewed in accordance with Part I.K of this permit and 40 CFR part 122.42(e)(6).

5. PUBLIC NOTICE OF CHANGE IN OWNERSHIP

Upon receipt of notification of a pending change in ownership, [Permitting Authority] shall provide public notice by:

1. Posting notice on [**Permitting Authority**] website; and
2. Emailing notice to an interested parties list maintained by [**Permitting Authority**].

J. CHANGE IN INTEGRATOR OR OPERATOR

Upon any change in the integrator or operator, including the addition of an integrator or operator or the dissolution of an integrator or operator relationship, of a facility covered under this general permit, the permittee shall notify [Permitting Authority] in writing at least 30 days prior to the effective date of the change. Notice shall include the signatures of the permittee, the former integrator or operator (as applicable), and the new integrator or operator (as applicable). Upon receipt of notification of a pending change in integrator or operator, [**Permitting Authority**] shall provide public notice by:

1. Posting notice on [**Permitting Authority**] website; and
2. Emailing notice to an interested parties list maintained by [**Permitting Authority**].

K. CHANGES TO THE NMP

1. PROPOSAL TO CHANGE THE NMP

A CAFO/SCAFO owner or operator wishing to make changes to its **NMP** must submit a proposal to [Permitting Authority] for approval at least 45 days in advance of implementing the proposed changes. The permittee may not implement a proposed change until [**Permitting Authority**] has notified the owner or operator in writing that the proposed change has been approved. When a CAFO/SCAFO owner or operator covered by this permit proposes to make changes to the CAFO/SCAFO's **NMP** previously submitted to [**Permitting Authority**], the CAFO/SCAFO owner or operator must provide the permitting authority with the most current version of the CAFO/SCAFO's **NMP** and identify changes from the previous version. If [**Permitting Authority**] determines that the changes to the **NMP** are not substantial, [**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/SCAFO and the public of any changes to the **NMP**.

2. SUBSTANTIAL CHANGES TO NMP

[Permitting Authority] may determine that any change to the NMP is substantial based on the proposal to change the NMP. When the permitting authority determines that a proposed change is substantial, it shall notify the public and make the proposed changes and the information submitted by the CAFO/SCAFO owner or operator available for public review and comment per the procedures specified in Part I.E. [Permitting Authority] may require the CAFO/SCAFO to further revise the NMP, if necessary. [Permitting Authority] shall notify the permittee of its final decision concerning the proposed changes within 90 days of the end of the public notice period.

At minimum, any of the following changes shall constitute a substantial change to the NMP:

1. Any increase in animal numbers above the number specified in the application for permit coverage.
2. Addition of new **land application areas** not previously included in the CAFO/SCAFO's NMP, except if the added **land application area** is covered by the NMP incorporated into an existing NPDES permit and the CAFO/SCAFO complies with the NMP when applying **manure**, litter, and **process wastewater** to the added land.
3. 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.
4. Addition of any crop or other uses not included in the CAFO/SCAFO's NMP.
5. Changes to site-specific components of the CAFO/SCAFO's NMP, where such changes may increase the risk of nitrogen and phosphorus transport to **Waters of the State**.
6. A change in the type of manure system, including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, changing the manure system to accommodate an animal species or type of operation not included in the scope of the current NMP, or adding new treatment technologies to existing treatment systems.

L. TERMINATION

1. TERMINATION AFTER FACILITY CLOSURE

Coverage under this permit may be terminated in accordance with the procedures in 40 CFR part 122.64 and if [Permitting Authority] determines in writing that the facility has ceased all operations, and that all wastewater or **manure** storage structures have been properly closed in accordance with Natural Resource Conservation Service (NRCS) Conservation Practice Standard No. 360, Closure of Waste Impoundments, and that all other remaining stockpiles of **manure**, litter, or **process wastewater** not contained in a wastewater or **manure** storage structure are properly disposed.

2. TERMINATION AND REQUIREMENT TO SEEK INDIVIDUAL PERMIT COVERAGE

[Permitting Authority] may, at any time, terminate coverage under the general permit and require any facility authorized by this permit or any facility seeking authorization under the 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 60 days.

3. AUTOMATIC TERMINATION OF COVERAGE

Coverage of the facility under this general permit is automatically terminated when (1) the operator fails to submit the required individual NPDES permit application within the defined time frame, or (2) on the effective date of an individual NPDES permit issued by [Permitting Authority].

M. PUBLIC ACCESS TO RECORDS

All materials submitted to [Permitting Authority] as required by the terms of this permit, including **NOIs**, **NMPs**, requests for **NMP** modification, and annual reports, shall be made publicly available in digital form on [Permitting Authority] website. [Permitting Authority] shall maintain a publicly accessible online database of all pending, approved, and denied requests for permit coverage.

Part II. Effluent Limitations and Operating Standards

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

A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS AND STANDARDS—PRODUCTION AREA

1. NO-DISCHARGE STANDARD FOR EXISTING FACILITIES

For all existing facilities granted coverage by this permit (CAFOs and SCAFOs), there may be no discharge of **manure**, litter, or **process wastewater** pollutants into **Waters of the State** from the **Production area** except as provided below. The term “**Production area**” includes all areas under control of the operation, except the **land application area**. Types of discharge that are prohibited include but are not limited to: contaminated runoff from confinement or waste accumulation areas; overflow or discharges from waste storage facilities; discharges due to equipment failure; pollutants blown from confinement areas by building fans; or leakage or seepage from facilities in the **Production area**.

2. EXCEPTION TO NO-DISCHARGE STANDARD FOR EXISTING FACILITIES

Whenever precipitation causes an overflow of **manure**, litter, or **process wastewater**, pollutants in the overflow may be discharged into **Waters of the State** provided all of the following conditions are satisfied.

a. Production Area Design Standard

The **Production area** is properly designed, constructed, operated and maintained to contain the entire design storage volume, as defined in subsection (b). For the purpose of this provision, “to contain” means to prevent any release of any pollutant from the area, including by leakage into groundwater.

b. Design Storage Volume

The design storage volume means the sum of the following:

- a) Double the estimated volume of **manure**, litter, **process wastewater**, and other wastes accumulated during the storage period.
- b) The normal precipitation less evaporation during the storage period for the location of the facility.
- c) The normal runoff during the storage period into the storage structure for the location of the facility.
- d) Direct precipitation from the **100-year 24-hour precipitation event** for the location of the facility.
- e) Runoff from the **100-year 24-hour precipitation event** from the **Production area** into the storage structure for the location of the facility.
- f) Residual solids after liquids are removed.

g) Necessary freeboard to maintain structural integrity. After settlement, the top of the embankment shall be at least 1 foot above the surrounding grade, or greater than the minimum determined by the current NRCS Conservation Practice Standard Code 313, whichever is greater.

h) A minimum treatment volume, in the case of treatment lagoons.

3. NO-DISCHARGE STANDARD FOR NEW FACILITIES

For all new facilities covered by this permit, there may be no discharge of **manure**, litter, or **process wastewater** pollutants into **Waters of the State** from the **Production area**. New facilities may not use lagoons except when the facility implements an approved digester system in conjunction with a double-synthetic-lined or concrete-lined and covered lagoon.

4. DEPTH MARKER REQUIREMENT

Each facility must maintain 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 **100-year 24-hour precipitation event**, the design storage volume, and the depth of **manure** and **process wastewater**. The marker shall be visible from the top of the levee.

5. LINER REQUIREMENTS

Utilization of a double-synthetic or concrete liner on all lagoon structures is required according to the following schedule.

a. New Liner Construction

New double-synthetic or concrete liners constructed and maintained in accordance with NRCS design specifications shall be considered to prevent hydrologic connection that could result in the contamination of surface waters. Where no site-specific assessment has been done by a NRCS engineer or Professional Engineer, the liner shall be constructed to have hydraulic conductivities no greater than 1×10^{-7} cm/sec, with a thickness of 1.5 feet or greater or its equivalency in other materials.

b. Existing Lagoon Upgrade Requirement

Facilities that operate existing lagoons that do not meet the new liner construction requirements must develop plans that provide for lagoons to be (1) upgraded to meet the new liner construction requirements within five years of the initial date of coverage under this permit, or (2) closed within five years of the initial date of coverage under this permit. The upgrade plan must be submitted to [**Permitting Authority**] at the time of submission of the **NMP** and shall be incorporated into the **NMP**.

B. ADDITIONAL MEASURES APPLICABLE TO THE PRODUCTION AREA

1. INSPECTIONS OF PRODUCTION AREA

Each facility must conduct and record inspections of the **Production area** according to the schedule and standards set forth in Appendix C of this permit.

2. TIMELY CORRECTION OF DEFICIENCIES

Each facility must correct any deficiencies that are identified in inspections within 48 hours of discovering the deficiency. Correcting an identified deficiency does not relieve the owner or operator of responsibility for any permit violation.

3. DISPOSAL OF MORTALITIES

The permittee shall handle and dispose of dead animals in a manner that prevents any contact between dead animals and **waters of the state**, including via water that reaches **waters of the state**. 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 that prevents creation of a public health hazard. Mortality handling practices shall be in accordance with all applicable state and local regulatory requirements. Rendering and composting, consistent with NRCS Practice Standards 316 and 317 as applicable, shall be utilized where those practices accord with applicable state and local regulatory requirements. Daily visual inspections for mortalities shall be performed, and mortalities shall be removed and disposed of upon discovery.

4. CLEAN WATER DIVERSION

The permittee shall 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 from the **Production area**, the retention structures shall include adequate storage capacity for the additional clean water. Clean water includes, but is not limited to, rain falling on the roofs of facilities and run-on from adjacent land.

5. NO DIRECT CONTACT WITH WATERS OF THE STATE

Each facility must prevent direct contact of confined animals with **Waters of the State** or with land within 30 feet of **Waters of the State**.

6. CHEMICAL AND CONTAMINANT EXPOSURE

Permittees must ensure that chemicals and other contaminants handled on-site are not disposed of in any **manure**, litter, or **process wastewater**, or in any stormwater storage or treatment system unless specifically designed to treat such chemicals and other contaminants. Examples of such chemicals are pesticides and petroleum products/by-products.

C. REQUIREMENTS FOR LAND APPLICATION NOT UNDER THE CONTROL OF THE PERMITTEE

In cases where any CAFO/SCAFO waste is sold, given away, or otherwise transferred to another person (recipient) such that the land application of that CAFO/SCAFO waste is no longer under the operational control of the CAFO/SCAFO owner or operator that generates the CAFO/SCAFO waste (generator), a manifest shall be completed and used to track the transfer and use of the CAFO/SCAFO waste.

1. CRADLE-TO-GRAVE WASTE MANIFEST

Prior to transfer of the CAFO/SCAFO waste, the CAFO/SCAFO owner or operator shall:

1. Prepare a manifest for tracking the CAFO/SCAFO waste; and
2. Designate on the manifest the recipient of the CAFO/SCAFO waste.

2. REQUIRED ELEMENTS OF WASTE MANIFEST

The generator shall use a manifest form that is approved by [**Permitting Authority**] and that provides for the recording of all of the following information:

1. A manifest document number;
2. The generator's name, mailing address, and telephone number;
3. The name and address of the recipient of the CAFO/SCAFO waste;
4. The nutrient content of the CAFO/SCAFO waste to be transferred, in sufficient detail to determine the appropriate land application rates;
5. The total quantity, by units of weight or volume, and the number and size of the loads or containers used to transfer that quantity of CAFO/SCAFO waste;
6. A statement that informs the recipient of his/her responsibility to properly manage the land application of the CAFO/SCAFO waste as necessary to assure there is no illegal discharge of pollutants to **Waters of the State**;
7. The following certification by the generator: "I hereby declare that the facility's waste is accurately described herein and is suitable for land application";
8. Other certification statements as may be required by [**Permitting Authority**];
9. The address or other location description of the site or sites used by the recipient for land application or other disposal or use of the CAFO/SCAFO waste; and
10. Signatures of the generator and recipient with dates of signature.

3. WASTE MANIFEST RECORD-KEEPING REQUIREMENTS

The generator shall do all of the following with respect to the manifest:

1. Sign and date the manifest certification prior to transfer of the CAFO/SCAFO waste;
2. Obtain the recipient's dated signature on the manifest and the date of acceptance of the CAFO/SCAFO waste;
3. Retain a copy of the signed manifest;
4. Provide a signed copy to the recipient;
5. Advise the recipient of his or her responsibilities to complete the manifest and, if not completed at time of delivery, to return a copy to the generator within 30 (thirty) days after completion of the land application or other disposal or use of the CAFO/SCAFO waste;
6. Keep the manifest on-site with the CAFO/SCAFO owner or operator's **NMP** for a minimum of five years, and make it available to **[Permitting Authority]** upon request.

4. MULTIPLE LOADS TRANSFERRED TO SAME RECIPIENT

One manifest may be used for multiple loads or containers of the same CAFO/SCAFO waste transferred to the same recipient. The manifest shall list separately each address or location used by the recipient for land application or other disposal or use of the CAFO/SCAFO waste. Each different address or location listing shall include the quantities of CAFO/SCAFO waste transferred to that location and the dates of transfer.

5. RESTRICTIONS ON OFF-SITE WASTE TRANSFER

CAFO/SCAFO waste shall not be transferred to a recipient unless such waste will be applied in compliance with Part III.H ("Application Area Restrictions"). In addition, the generator shall not sell, give away, or otherwise transfer CAFO/SCAFO waste to a recipient if any of the following are true:

1. The recipient fails or refuses to provide accurate information on the manifest in a timely manner;
2. The use or disposal information on the manifest indicates improper land application, use, or disposal;
3. The generator learns that there has been improper land application, use, or disposal of the manifested CAFO/SCAFO waste; or
4. The generator has been advised by **[Permitting Authority]** that **[Permitting Authority]** or a court of appropriate jurisdiction has determined that the recipient has improperly land-applied, used, or disposed of a manifested CAFO/SCAFO waste.

6. REINSTATEMENT OF VIOLATING WASTE RECIPIENT

If the generator has been prohibited from selling, giving, or otherwise transferring CAFO/SCAFO waste to a particular recipient under Part II.C.5, above, and the generator wishes to resume selling, giving, or otherwise transferring CAFO/SCAFO waste to that particular recipient, then one of the following shall be accomplished prior:

1. For improper paperwork only, such as incomplete or inaccurate information on the manifest, the recipient must provide the correct, complete information;
2. For improper land application, use, or disposal of the CAFO/SCAFO waste by the recipient, the generator must demonstrate, in writing, to **[Permitting Authority]** that the improper land application, use, or disposal has been corrected, and must receive **[Permitting Authority]** approval of that demonstration.

7. DE MINIMIS EXCEPTION

The requirements of Part II.C do not apply to quantities of CAFO waste less than one pickup truck load, one cubic yard, or one ton per recipient per week.

D. OTHER LEGAL REQUIREMENTS

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

Part III. Nutrient Management Plan (NMP)

CAFO/SCAFO owners or operators seeking coverage under this general permit shall develop, submit, and implement a site-specific **NMP**. The site-specific **NMP** at a minimum shall include practices and procedures necessary to implement the applicable effluent limitations, standards, and requirements set forth below.

A. SITE-SPECIFIC CONSERVATION PRACTICES

1. RUNOFF PREVENTION

Appropriate site-specific conservation practices to be implemented on **land application areas** shall be identified, including buffers or equivalent practices, as appropriate, to control runoff of pollutants to **Waters of the State** and specifically to minimize the runoff of nitrogen and phosphorus. Each CAFO/SCAFO covered by this permit must implement the site-specific conservation practices included in the **NMP** incorporated into this permit, as specified in the current NRCS Conservation Practice Standard, Code 590, 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 below the soil loss tolerance (T) value specified in the NRCS Field Office Technical Guide for the county or counties where the CAFO/SCAFO is located [or other standards identified by **Permitting Authority**].

2. EROSION-SENSITIVE AREAS

Areas shall be identified that, due to topography, activities, or other factors, have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to **Waters of the State**, measures shall be identified that prevent erosion and pollutant runoff.

B. WASTE PRODUCT TESTING PROTOCOLS

Protocols shall be identified for appropriate testing of **manure**, litter, **process wastewater**, and soil. **manure**, wastewater, and soil sampling must be conducted in accordance with the requirements of Appendix C of this permit and the following protocols: *[Insert specific references for the protocols that are to be used]*.

C. LAND APPLICATION PROTOCOLS

The form, source, amount, timing, and method of application of nutrients shall be specified for each field subject to land application of **manure**, litter, or **process wastewater** in accordance with site-specific nutrient management practices that ensure complete agricultural utilization of the nutrients in the **manure**, litter, or **process wastewater**.

D. APPLICATION RATES

For CAFOs/SCAFOs where any portion of generated **manure**, litter, or **process wastewater** is applied to land, the **NMP** required by this permit must meet the following requirements.

1. DETERMINATION OF APPLICATION RATES

The CAFO/SCAFO's site-specific **NMP** shall document the calculation of land application rates of **manure**, litter, or **process wastewater**, and must incorporate the information gathered through field-specific assessment of the potential for N, P, K, and NH₄ transport from the field. 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 and complete agricultural utilization of nutrients. 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 nitrogen and phosphorus risk assessment tools established by the **Permitting Authority**]. The calculated "realistic production goal" shall not exceed the highest average per-acre yield from the previous five years, plus 5%, unless [**Permitting Authority**] grants a waiver authorizing a different yield calculation based on scientific evidence of superior expected yields submitted to [**Permitting Authority**].

[It is recommended that a complete copy of the standard established by the Permitting Authority be included as an appendix to the permit.]

2. METHODS OF CALCULATING APPLICATION RATES

Application rates shall be expressed in the **NMP** consistent with one of the following two approaches: "Linear Rate Approach" or "Narrative Rate Approach."

A. Linear Rate Approach

The Linear Rate Approach expresses rates of application as pounds of nitrogen and phosphorus. CAFO/SCAFOs selecting the Linear Rate Approach must include in the **NMP** submitted to [**Permitting Authority**] the following information for each crop, field, and year covered by the **NMP**, which will be used to establish site-specific permit terms:

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

2. The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. [If a state does not have a nitrogen and/or phosphorus transport risk assessment, the **NMP** must document any basis for assuming that nitrogen and phosphorus will be used to the maximum extent possible by crops.] The CAFO/SCAFO must specify any conservation practices used in calculating the risk rating.
3. The crops to be planted or any other uses of a field such as pasture or fallow field.
4. The realistic production goal for each crop or use identified for each field.
5. The nitrogen and phosphorus recommendations from **[Permitting Authority]** for each crop or use identified for each field.
6. Credits for all residual nitrogen in each field that will be plant-available.
7. Consideration of multiyear 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.
8. 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 and phosphorus).
9. The form and source of **manure**, litter, and **process wastewater** to be land-applied.
10. The timing and method of land application. The **NMP** also must include storage capacities needed to ensure adequate storage that accommodates the timing indicated.
11. The methodology that will be used to account for the amount of nitrogen and phosphorus in the **manure**, litter, and wastewater to be applied.
12. Any other factors necessary to determine the maximum application rate identified in accordance with this Linear Rate Approach.

B. Linear Rate Approach—Additional Requirements

At least once each year, all CAFO/SCAFOs using the Linear Rate Approach must calculate the maximum amount of **manure**, litter, and **process wastewater** to be land-applied 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.

C. Narrative Rate Approach

The 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. CAFO/SCAFOs selecting the Narrative Rate Approach to address rates of application must include in the **NMP**

submitted to **[Permitting Authority]** the following information for each crop, field, and year covered by the **NMP**, which will be used by **[Permitting Authority]** to establish site-specific permit terms:

1. The maximum amounts of nitrogen and phosphorus that will be derived from all sources of nutrients (pounds/acre for each crop and field).
2. 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/SCAFO must specify any conservation practices used in calculating the risk rating.
3. The crops to be planted in each field or any other uses of a field such as pasture or fallow field, 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.
4. The realistic production goal for each crop or use identified for each field for each year, including any alternative crops identified.
5. 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.
6. The methodology (including formulas, sources of data, protocols for making determination, etc.) and actual data that will be used to account for:
 - a. The results of soil tests required by Appendix C;
 - b. Credits for all nitrogen and phosphorus in the field that will be plant-available;
 - c. The amount of nitrogen and phosphorus in the **manure**, litter, and **process wastewater** to be applied;
 - d. Consideration of multiyear 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);
 - e. 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);
 - f. Timing and method of land application; and
 - g. Volatilization of nitrogen and mineralization of organic nitrogen.
7. Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach.

D. Narrative Rate Approach—Additional Requirements

At least once each year, all CAFO/SCAFOs using the Narrative Rate Approach must calculate maximum amounts of **manure**, litter, and **process wastewater** to be land-applied using the methodology specified before land applying **manure**, litter, and **process wastewater**. Such calculations must rely on the following data:

1. 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 by this permit; and
2. 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 by this permit, in order to determine the amount of nitrogen and phosphorus in the **manure**, litter, and **process wastewater** to be applied.

E. EFFLUENT LIMITATIONS AND STANDARDS FOR LAND APPLICATION AREAS UNDER THE CONTROL OF THE CAFO/SCAFO OWNER/OPERATOR

The following protocols, procedures, standards, and requirements shall be standard conditions for any **NMP**.

1. MANURE AND SOIL SAMPLING

manure must be analyzed at least once annually for total nitrogen, NTK, ammonia, nitrate-nitrogen, and total phosphorus content. Soil must be analyzed at least twice annually for N, P, K, and NH₄, including once in the month preceding planting and once in the month after harvest. **[or replace with more stringent state-specific soil sampling frequencies for N, P, K and NH₄]**. The results of the analyses, including nutrient uptake rates estimated by preplanting and postharvest soil analyses, must be used in determining application rates for **manure**, litter, and **process wastewater**.

2. INSPECTION OF LAND APPLICATION EQUIPMENT FOR LEAKS

Equipment used for land application of **manure**, litter, or **process wastewater**, including wastewater conveyance lines, must be inspected for leaks prior to each land application or waste disposal, and the results of the inspection must be recorded in an on-site log.

3. LAND APPLICATION SETBACK REQUIREMENTS

All applications of **manure**, litter, and lagoon or pond wastewater must meet the standards of the most current NRCS Conservation Practice Standard 590.

[Or insert stricter standards based on state-specific conservation practices.] Land application is not permitted within 10-year floodplains or wetlands.

4. 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 Appendix C of this permit.

5. IRRIGATION CONTROL

Irrigation systems shall be managed so as to minimize ponding or puddling of wastewater on land application fields, and to prevent: a) any wastewater from reaching ground and surface water, and b) the occurrence of nuisance conditions such as odors and flies.

6. TILE DRAINAGE SYSTEMS

When applied to land with subsurface tile drainage systems, applications are prohibited when tiles are actively flowing. Applications are also prohibited unless manure is applied using aerators and incorporation techniques. Application of wet manure must be limited so as to avoid manure flowing into tile drain inlets, and all drainage tile outlets shall be inspected after land application to ensure there is no discharge from the application field.

F. WATER QUALITY–BASED EFFLUENT LIMITATIONS

1. PROHIBITION OF DRY-WEATHER DISCHARGES

There shall be no dry-weather discharges from land application sites.

2. NITROGEN, PHOSPHORUS, *ESCHERICHIA COLI*, BIOTA, DISSOLVED OXYGEN IMPAIRMENT

The permittee's **COC** will indicate if the permittee's **Production area** or **land application areas** are located within a watershed(s) covered by an approved nitrogen, phosphorus, pathogen, biota, or dissolved oxygen Total Maximum Daily Load (TMDL). **[Permitting Authority]** will develop and publish guidance regarding how to evaluate operations and determine additional pollutant control measures. After the guidance is published, the permittee shall complete the following actions within 15 months of receiving notification from **[Permitting Authority]**:

1. Conduct a comprehensive evaluation of its operations;
2. Determine whether additional pollutant control measures need to be identified and implemented to meet the permittee's pollutant loading (or "concentration" in the case of *E. coli*) capacity(ies) set forth in the approved TMDL; and

3. Submit a written report to **[Permitting Authority]** based on one of the following: (a) If the permittee determines that the pollutant loading or concentration capacity(ies) established in the approved TMDL is not being exceeded, then the written report submitted to **[Permitting Authority]** shall justify that determination; or (b) if the permittee determines that the pollutant loading or concentration capacity(ies) established in the approved TMDL is being exceeded, then the written report submitted to **[Permitting Authority]** shall identify additional pollutant control measures that need to be implemented by the permittee to achieve compliance with the pollutant loading capacity(ies) established in the approved TMDL. The permittee's written report shall also include an implementation schedule for each identified additional pollutant control measure.

If the written report identifies needed additional pollutant control measures, the permittee shall, upon approval of **[Permitting Authority]**, implement the additional pollutant control measures according to the schedule. The approved written report detailing the additional pollutant control measures and the associated implementation schedule shall be incorporated into the **NMP** and shall be an enforceable part of this permit.

G. OTHER EFFLUENT LIMITATIONS

1. PROCESS WASTEWATER DISCHARGES FROM THE PRODUCTION AREA

Potential for **process wastewater** discharges from the **Production area** shall be identified in the **NMP**, including: wash-down of equipment that has been in contact with **manure**, raw materials, products, or by-products that occurs in the **Production area**; and runoff of pollutants from raw materials, products, or by-products (such as **manure**, litter, bedding, and feed) from the CAFO/SCAFO that have been spilled or otherwise deposited in the **Production area** and that have the potential to contribute pollutants to **Waters of the State**. The **NMP** shall identify measures necessary to prevent such discharges into **Waters of the State**.

2. WASTEWATER DISCHARGES THAT DO NOT MEET THE DEFINITION OF PROCESS WASTEWATER

Wastewater discharges that do not meet the definition of **process wastewater** and have potential to contribute pollutants to **Waters of the State**, including: (1) discharges associated with feed, fuel, chemical, or oil spills, or 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; shall be identified in the **NMP** along with measures taken to prevent these discharges.

H. APPLICATION AREA RESTRICTIONS

There shall be no application of **manure**, litter, or **process wastewater** on frozen or snow-covered ground, during periods of crop dormancy, to saturated soils, or prior to forecast precipitation events that may result in saturated soils or surface runoff. There shall be no application of **manure**, litter, or **process wastewater** on grades exceeding 3% (except by injection or immediate incorporation), or within a 10-year floodplain, or within 0.5 mile of any school, hospital, or public park, or within 0.25 mile of any residence or residential well (unless the owner or operator demonstrates to **[Permitting Authority]** that pollutants in applied **manure**, litter, or **process wastewater** will not reach such well). Waste must be applied by injection if the application area lies within 2,500 feet of a residence; if the application area lies more than 2,500 feet from a residence, application by injection is the default standard subject to amendment by application to **[Permitting Authority]**.

I. NMP SIGNATURE REQUIREMENT

The **NMP** shall be signed by the owner/operator and the integrator (as applicable) in accordance with Part VII.D of this permit ("Signatory Requirements").

J. INCORPORATION OF THE NMP

The **NMP** is fully incorporated into the permit by reference upon approval of the permit, and as such is an enforceable requirement of the permit. The permittee must comply with all terms and conditions of its approved **NMP**.

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. Prohibition Against Abandonment

No lagoon or other earthen- or synthetic-lined basin shall be abandoned. 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, except as provided in subsection b, below. Lagoons and other earthen- or synthetic-lined basins shall be maintained at all times until closed in compliance with this section.

b. Planning for Closure

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 (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 1 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 submit a proposed closure plan for approval by **[Permitting Authority]** thirty (30) days prior to the basin closure, detailing the actions to be taken. Furthermore, the permittee shall submit a post-closure report to **[Permitting Authority]** no more than thirty (30) days after the basin closure so as to document the actual activities implemented. Prior to restoration of use of the structure, the permittee shall notify **[Permitting Authority]** in writing.

c. Standards for Closure

All closures of lagoons and other earthen- or synthetic-lined basins must be consistent with the current NRCS Conservation Practice Standard Code 360 (Closure of Waste Impoundments). 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 **NMP** and closure plan, unless otherwise authorized by **[Permitting Authority]**.

d. Time Line for Closure Following Cessation of Operation

Unless otherwise authorized by **[Permitting Authority]**, completion of closure for lagoons and other earthen- or synthetic-lined basins shall occur within 30 days after the permittee ceases to operate or, if the permittee has not ceased operations, 60 days from the date on which the use of the structure ceased.

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, but in no event later than 180 days after such date. If the permittee has not ceased to operate, closure shall occur within 360 days 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** /closure plan, or document its transfer from the permitted facility in accordance with Part II.C of this permit.

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

1. NOTIFICATION TIME LINE—ORAL AND WRITTEN

If, for any reason, there is a discharge of pollutants to **Waters of the State**, the permittee is required to make immediate oral notification to [Permitting Authority (Contact Number)] and notify [Permitting Authority] in writing within 2 working days of the discharge from the facility. In addition, the permittee shall keep a copy of the notification submitted to [Permitting Authority] together with the other records required by this permit.

2. WRITTEN NOTIFICATION REQUIREMENTS

The discharge notification shall include the following information.

a. Discharge Description

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 rate and volume discharged.

b. Discharge Duration

The period of discharge, including exact dates and times, the anticipated length of time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the discharge.

c. Contact Information

The names and current business phone numbers of the permit holder, facility operator, and on-site manager.

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, the permittee shall take the following actions.

1. SAMPLING AND ANALYSIS

All discharges shall be sampled and analyzed, including overflows and spills from waste storage structures.

Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, ammonia nitrogen, phosphorus, 5-day biochemical oxygen demand (BOD5), total suspended solids, pH, temperature, pathogens (including **fecal coliform**), and any pesticides or antibiotics the operator has reason to believe could be in the discharge.

2. VOLUME ESTIMATION

Permittee shall record an estimate of the volume of the release and the date and time.

3. SAMPLE COLLECTION

Samples shall consist of **grab samples** collected from the overflow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge, within 30 minutes of knowledge of the discharge or as soon as practicable after the first 30 minutes. If applicable, the permittee must document why it was not possible to take samples within the first 30 minutes. **grab samples** shall be taken every 4 hours for as long as the discharge continues. The sample shall be collected and analyzed in accordance with EPA-approved methods for water analysis listed in 40 CFR 136. Samples collected shall be representative of the monitored discharge. 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, tornado, electrical storm, 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.

4. REPORTING

Permittee shall report all discharge monitoring results to [Permitting Authority] within 15 days of the discharge.

C. GENERAL INSPECTION, MONITORING, AND RECORD-KEEPING REQUIREMENTS

The permittee shall inspect and monitor the facility and record the results of such inspection and monitoring in accordance with the parameters, units, and frequency specified by Appendix C.

D. ADDITIONAL MONITORING REQUIREMENTS

1. ADDITIONAL MONITORING FOR SOME HIGH-RISK OPERATIONS

Upon notification by [Permitting Authority], the permittee may be required to conduct ambient monitoring of surface water or groundwater or both. *[For example, especially-large facilities, facilities with historical compliance problems, facilities with significant environmental concerns, or facilities located near impaired water bodies are subject to additional monitoring requirements, including monitoring of up- and down-gradient wells, tile outlets, ditches, and other site-specific locations. The Permitting Authority should establish appropriate ambient surface and groundwater monitoring requirements in the NPDES permit.]* All facilities covered by this permit shall conduct groundwater testing at waste storage sites at least annually.

2. ADDITIONAL TESTING REQUIREMENT

Upon request by [**Permitting Authority**], the permittee shall 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. Reporting Requirements

A. ANNUAL REPORTING REQUIREMENTS

1. ANNUAL REPORTING DEADLINE

The permittee shall submit an annual report to the **Permitting Authority** and EPA on or before December 31 of each year.

2. ANNUAL REPORT REQUIRED INFORMATION

The annual report shall include the following information:

1. The number and type of animals, and whether housed in open confinement or under roof.
2. Estimated amount of total **manure**, litter, and **process wastewater** generated by the CAFO/SCAFO in the previous 12 months (tons/gallons).
3. A copy of the waste manifest required by Part II.C of the permit, including the amount of total **manure**, litter, and **process wastewater** transferred to any other person by the CAFO/SCAFO in the previous 12 months (tons/gallons), listed by transferee as recorded in the cradle-to-grave manifest.
4. Total number of acres for land application covered by the **NMP**.
5. Total number of acres under control of the CAFO/SCAFO 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 occurred in the previous 12 months, including date, time, and approximate volume.
7. 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.
8. Results of calculations conducted in accordance with Part III.D.3 of this permit (for the Linear Rate Approach) and Part III.D.5 of this permit (for the Narrative Rate Approach).
9. Amount of **manure**, litter, and **process wastewater** applied to each field during the preceding 12 months.
10. For CAFOs/SCAFOs 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.D.5 of this permit.
 - iii. The amount and formulation of any supplemental fertilizer applied during the preceding 12 months.
11. The records specified for Operation and Maintenance in Appendix C of this permit.

B. ALTERATIONS OR ADDITIONS TO FACILITY

The permittee shall give notice to **[Permitting Authority]** as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required when any of the following are true:

1. ALTERATIONS OR ADDITIONS—POTENTIAL FOR NEW SOURCE

The alteration or addition to a permitted facility may meet any of the criteria for determining whether a facility is a new source in 40 CFR part 122.29(b).

2. ALTERATIONS OR ADDITIONS—POTENTIAL FOR SIGNIFICANT INCREASE IN POLLUTANTS

The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. The notification also applies to pollutants that are subject neither to effluent limitations in the permit nor to notification requirements under 40 CFR 122.42(a)(1).

3. ALTERATIONS OR ADDITIONS—CHANGE IN MANURE USE/ DISPOSAL PRACTICES

The alteration or addition results in a change in the permittee's **manure** use or disposal practices.

C. AMENDMENTS TO PERMIT APPLICATION

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 **[Permitting Authority]**, the permittee shall promptly submit such facts or information to **[Permitting Authority]**.

Part VI. Reporting Requirements

A. GENERAL CONDITIONS

1. INCORPORATION OF CWA REQUIREMENTS

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, and all applicable regulations, insofar as those requirements and regulations do not conflict with the terms of this permit.

2. CONSEQUENCES OF NONCOMPLIANCE

The permittee must comply with all conditions of this permit. Any permit noncompliance may be 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. INCORPORATION OF TOXIC POLLUTANT EFFLUENT STANDARDS

The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Clean Water 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. MODIFICATION, REVOCATION, AND TERMINATION FOR CAUSE

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. LIMITS OF PERMIT SCOPE

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. REQUESTS FOR ADDITIONAL INFORMATION

The permittee shall furnish to [Permitting Authority], within a reasonable time, any information that [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 [Permitting Authority], on request, copies of records required to be kept by this permit.

7. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

8. PROHIBITION ON CAUSING OR CONTRIBUTING TO VIOLATIONS OF WATER QUALITY STANDARDS

In addition to the other requirements of this permit, no discharge shall occur that will cause or contribute to any violation of numeric or narrative water quality standards.

9. BYPASS

a. Definitions

Bypass: the intentional diversion of waste streams from any portion of the facility.

Severe property damage: 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, subject to subsections c and d below.

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 provide immediate oral notification of the bypass to [Permitting Authority].

d. Prohibitions of Bypass

i. Bypass is prohibited, and the **Permitting Authority** may take enforcement action against a permittee for bypass, unless all of 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 from occurring during normal periods of equipment downtime or preventive maintenance.

- The permittee submitted notices as required under subsection c, above.

- ii. [Permitting Authority] may approve an anticipated bypass, after considering its adverse effects, if [Permitting Authority] determines that it will meet the three conditions listed above in Part VII.A.9.d.(i) of this permit.

e. Mitigation Requirement

Any bypass allowed by Part VII.A.9.d.(ii) of this permit must, where practicable, be released to vegetated fields for filtering, or captured in secondary containment to minimize discharges to [Waters of the State](#).

10. UPSET

a. Definition

Upset: 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 subsection c, below, are met.

c. Conditions Necessary for a Demonstration of Upset

A permittee that wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, the following:

- i. An upset occurred and 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 immediate oral notification of the upset to [Permitting Authority].
- iv. The permittee complied with any remedial measures required under Part VII.A.13 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.

11. 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.

12. 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.

13. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge or disposal in violation of this permit.

14. INSPECTION AND ENTRY

The permittee shall allow [Permitting Authority], or an authorized representative (including an authorized contractor acting as a representative of [Permitting Authority]), upon presentation of credentials and other documents as may be required by law, to do the following:

a. Right of Entry

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. Records Access

Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.

c. Inspection

Inspect at any time any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.

d. Sampling and Monitoring

Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized, 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 MUST BE REPRESENTATIVE

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. 5-YEAR RECORD-KEEPING REQUIREMENT

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 **[Permitting Authority]** at any time.

3. RECORD-KEEPING: REQUIRED ELEMENTS

Permittee must meet all monitoring and record-keeping requirements included in Appendix C, including all content, frequency, and unit requirements. For any sample, measurement, or analysis taken in compliance with this section, permittee shall also record: the date, exact place, and time of sampling or measurements; the individual(s) who performed the sampling or measurements; the date(s) analyses were performed; the individual(s) who performed the analyses, where applicable; the analytical techniques or methods used, where applicable; and the results of such analyses, where applicable.

4. MONITORING PROCEDURES

The permittee shall adhere to 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 by this permit or by **[Permitting Authority]**.
- 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. MONITORING REPORTS

Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by **[Permitting Authority]** for reporting results of monitoring of waste use or disposal practices.

D. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to **[Permitting Authority]** shall be signed and certified consistent with 40 CFR part 122.22 and the terms of this general permit.

1. All **NOIs**, **NMPs**, requests to modify **NMPs**, and annual reports 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 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.
 - c. For any facility under contract with an integrator: In addition to the requirements above, the signature of an authorized representative of the integrator is required.
2. Any additional reports required by the permit and other information requested by **[Permitting Authority]** shall be signed by an owner or operator as 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 received by **[Permitting Authority]**.

E. CERTIFICATION

Any person signing a document under this Part 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.”

F. AVAILABILITY OF REPORTS

The name and address of an NPDES permit applicant or permittee, NPDES permit applications and their attachments, NPDES permits, and NPDES permit discharge data are not kept confidential and are available to the public without notice.

Appendix A: 40 CFR §122.23

DEFINITIONS OF CONCENTRATED ANIMAL FEEDING OPERATIONS

(a) Scope. Concentrated animal feeding operations (CAFOs), as defined in paragraph (b) of this section or designated in accordance with paragraph (c) of this section, are point sources, subject to NPDES permitting requirements as provided in this section. Once an animal feeding operation is defined as a CAFO for at least one type of animal, 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.

(b) Definitions applicable to this section:

(1) Animal feeding operation (“AFO”) 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.

(2) Concentrated animal feeding operation (“CAFO”) means an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of this paragraph, or that is designated as a CAFO in accordance with paragraph (c) of this section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

(3) The term land application area means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.

(4) Large concentrated animal feeding operation (“Large CAFO”). An AFO is defined as a Large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(i) 700 mature dairy cows, 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).

(5) The term manure is defined to include manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

(6) Medium concentrated animal feeding operation (“Medium CAFO”). The term Medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed in paragraph (b)(6)(i) of this section and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:

(i) The type and number of animals that it stables or confines falls within any of the following ranges:

(A) 200 to 699 mature dairy cows, whether milked or dry;

(B) 300 to 999 veal calves;

(C) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

(D) 750 to 2,499 swine each weighing 55 pounds or more;

(E) 3,000 to 9,999 swine each weighing less than 55 pounds;

(F) 150 to 499 horses;

(G) 3,000 to 9,999 sheep or lambs;

(H) 16,500 to 54,999 turkeys;

(I) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

(J) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(K) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

(L) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or

(M) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); and

(ii) 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.

(7) Process wastewater means water directly or indirectly used in the operation of the AFO 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 any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

(8) 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 confinement 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.

(9) Small concentrated animal feeding operation ("Small CAFO"). An AFO that is designated as a CAFO and is not a Medium CAFO.

(c) How may an AFO be designated as a CAFO? The appropriate authority (i.e., State Director or Regional Administrator, or both, as specified in paragraph (c)(1) of this section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to Waters of the United States.

(1) Who may designate?—(i) Approved States. In States that are approved or authorized by EPA under Part 123, CAFO designations may be made by the State Director. The Regional Administrator may also designate CAFOs in approved States, but only where the Regional Administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent State or Indian country water that is impaired for that pollutant.

(ii) States with no approved program. The Regional Administrator may designate CAFOs in States that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

(2) In making this designation, the State Director or the Regional Administrator shall consider the following factors:

(i) The size of the AFO and the amount of wastes reaching Waters of the United States;

(ii) The location of the AFO relative to Waters of the United States;

(iii) The means of conveyance of animal wastes and process waste waters into Waters of the United States;

(iv) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes manure and process waste waters into Waters of the United States; and

(v) Other relevant factors.

(3) No AFO shall be designated under this paragraph unless the State Director or the Regional Administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in paragraph (b)(6) of this section may be designated as a CAFO unless:

(i) Pollutants are discharged into Waters of the United States through a manmade ditch, flushing system, or other similar manmade device; or

(ii) Pollutants are discharged directly into Waters of the United States which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Appendix B: Contents of the NOI

Any **NOI** submitted for coverage under this permit must include the following information:

- a. Name, business address, and business phone number of the owner and/or operator, authorized representative and technical adviser, and integrator (where applicable).
- b. Facility location and mailing address.
- c. Latitude and longitude of the entrance to the **production area**.
- d. Topographic map of the geographic area in which the CAFO is located showing the specific locations of the **production area** and **land application area** and the name and location of the nearest surface waters; the source of the livestock operation's water supply; the surface water flow direction; the location of all major structures and components such as components and pipes, drains, and liner details such as sealing and concrete specifications.
- e. A diagram of the **production area**.
- f. Minimum number specified for each type of animal, 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, or turkeys).
- g. Maximum number specified for each type of animal, 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, or turkeys).
- h. Type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under-floor pits, aboveground storage tanks, belowground storage tanks, concrete pad, impervious soil pad, other) and total design storage volume for **manure**, litter, and **process wastewater** storage (tons/gallons). Total design storage volume includes all wastes accumulated during the storage period, and as applicable:
 - i. Double the volume of manure, litter, process wastewater, and other wastes accumulated during the storage period.
 - ii. The normal precipitation less evaporation during the storage period.
 - iii. The normal runoff during the storage period into the storage structure.
 - iv. Direct precipitation from the **100-year 24-hour precipitation event**.
 - v. Runoff from the **100-year 24-hour precipitation event** from the **production area** into the storage structure.
 - vi. Residual solids after liquids are removed.
 - vii. Necessary freeboard to maintain structural integrity. After settlement, the top of the embankment shall be ≥ 1 foot above the surrounding grade, or greater than the minimum determined by the current NRCS Conservation Practice Standard Code 313, whichever is greater.

- viii. A minimum treatment volume, in the case of treatment lagoons.
- h. Total number of acres under control of the applicant available for **land application** of **manure**, litter, or **process wastewater**. The applicant must specify both the total acres actively owned or managed by applicant for **land application** of **manure**, litter, or **process wastewater**, and the total acres owned and controlled by others that receive applicant's **manure**, litter, or **process wastewater** for land application.
- 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. A Nutrient Management Plan (**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.
- l. For new facilities, applicants must also submit:
 1. A description of the methods that will be implemented to ensure the facility is constructed in accordance with the applicable design criteria and regulations. Relevant information includes soil liner testing; pipe material and placement verification; sealing of joints or seams in concrete, steel, or flexible membrane liners; placement of splash pads or other protective devices; and other items as determined by [**Permitting Authority**].
 2. The engineer's scope of services contract or a detailed construction quality assurance plan for the construction of all waste control facilities.
 3. United States Geological Survey Quadrangle Map(s) or equivalent maps showing the location of the facility and the area extending 2,000 feet from the facility. This map must show all known wells, homesteads, and businesses.
 4. Design calculations for sizing of conveyances and storage facilities, which include structural determinations for particular earthen structures.
 5. Geotechnical reports (as necessary to support design calculations and groundwater information).

Appendix C: Permit Record-Keeping Requirements

Parameter	Units	Frequency
PERMIT AND NUTRIENT MANAGEMENT PLAN		
The CAFO/SCAFO must maintain on-site a complete copy of the current NPDES permit, including the permit authorization notice and the Nutrient Management Plan.	N/A	Maintain at all times
The CAFO/SCAFO 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 documenting 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
SOIL AND MANURE/WASTEWATER NUTRIENT ANALYSIS		
Analysis of manure, litter, and process wastewater to determine nitrogen NTK, ammonia, nitrate-nitrogen, total phosphorus content, antibiotics, and pathogens	Ppm and Pounds/ton	At least annually after initial sampling
Analysis of soil in all fields where land application activities are conducted to determine content of N, P, K, NH ₄	Ppm	At least annually after initial sampling

Parameter	Units	Frequency
OPERATION AND MAINTENANCE		
Visual inspection of all stormwater diversion devices, runoff diversion structures, and devices channeling contaminated stormwater to wastewater and manure storage and containment structure	N/A	Weekly
Visual inspection of all water lines	N/A	Daily
Visual inspection of rain gauge	Inches	Daily
Visual inspection of the manure, litter, and process wastewater impoundments, including 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	Cubic yards/ gallons	
• Days of storage capacity	Days	
Documentation of all overflows from all manure and wastewater storage structures, including:		
• 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)	Ppm	Per event
LAND APPLICATION		
For each application event where manure, litter, or process wastewater is applied, documentation of the following for each 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 before and after application	N/A	Daily
• Total amount of nitrogen and phosphorus applied	Pounds per acre	Daily
Documentation of the crop and expected yield for each field	Bushels per acre	Seasonally
Documentation of the actual crop planted and actual yield for each field	Bushels per acre	Seasonally
Documentation of test methods and sampling protocols used to sample and analyze manure, litter, wastewater, and soil	N/A	Annually unless revised
Documentation of the basis for the application rates used for each field where manure, litter, or wastewater is applied	N/A	Annually unless revised
Documentation showing the total nitrogen and phosphorus to be applied to each field, including nutrients from the application of manure, litter, wastewater, and other sources	Pounds per acre	Annually unless revised
Documentation of manure application equipment inspection	N/A	Monthly
MANURE TRANSFER		
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