

Appendix C

Permit Number: CAFO General Permit #1
Effective Date: August 15, 2003
Expiration Date: July 31, 2008
Issuance Date: October 1, 2003

OREGON CONFINED ANIMAL FEEDING OPERATION
GENERAL PERMIT NUMBER 1

State of Oregon
Department of Agriculture
Natural Resources Division
and
Department of Environmental Quality
Water Quality Division

In compliance with the provisions of Oregon Revised Statutes (ORS) Chapter 468B,
Oregon Administrative Rules (OAR) Chapter 603, Division 74,
The Federal Water Pollution Control Act as amended
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.,
and
The National Pollutant Discharge Elimination System
(NPDES)

Until this permit expires, is modified or revoked, permittees who have properly obtained coverage under this permit are authorized to discharge to waters of the state in accordance with the special and general conditions that follow.

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S1. PERMIT COVERAGE

S1.A. When is a Permit Required?

1. Any person who owns or operates a confined animal feeding operation (CAFO) that confines for more than four months and has waste water control facilities is required to obtain coverage under this permit. Any person who owns or operates a *concentrated* animal feeding operation is required to obtain coverage under this permit. Failure to obtain coverage under this permit is a violation of ORS 468B.050 and 468B.215 except as provided in S1.E Individual Permit Coverage, p. 4.
2. Any person who owns or operates an animal feeding operation (AFO) designated by the director pursuant to OAR 603-074-0012 as a *concentrated* AFO (see definition S1.F.5(c), p. 6) is required to obtain coverage under this permit. Failure to obtain coverage under this permit is a violation of ORS 468B.050 and 468B.215 except as provided in S1.E Individual Permit Coverage, p. 4.
3. Any person who owns or operates an AFO may be covered under this permit. Any person voluntarily registering for coverage under the permit is liable for compliance with all terms and conditions of the permit.
4. Any person not wishing to be covered by this permit may apply for an individual permit in accordance with OAR 340-045-0030.

S1.B. Schedule for General Permit Coverage

Owners and operators of CAFOs subject to coverage under this permit must submit an ODA Application to Register (ATR) according to the following schedule:

1. All newly constructed CAFOs
Newly constructed CAFOs, including "new sources" must submit an ATR at least 180 days prior to the time that the CAFO commences operation.
2. Existing CAFOs that met the previous definition of *concentrated* AFOs:
CAFOs that were defined as *concentrated* under federal regulations in effect prior to April 14, 2003, must submit an ATR immediately.
3. Existing CAFOs newly defined as *concentrated* AFOs as of April 14, 2003:
CAFOs that met the federal definition of *concentrated* as of April 14, 2003, that were not defined as *concentrated* in federal regulation prior to that date must submit an ATR by a date specified by the director, but no later than February 13, 2006.
4. Existing CAFOs that become defined as *concentrated* AFOs after April 14, 2003:
CAFOs that become defined as *concentrated* after April 14, 2003, must submit an ATR within 90 days after becoming defined as a CAFO unless the change in operation that causes the AFO to be defined as a *concentrated* AFO would not have caused it to be defined as a *concentrated* AFO prior to April 14, 2003.
5. All other existing CAFOs that are not *concentrated* AFOs:
Other existing CAFOs that are not *concentrated* AFOs covered by this permit must submit an ATR within 90 days of notification by the director that permit coverage is required.
6. AFOs designated by the director:
AFOs designated by the director as a *concentrated* AFO must submit an ATR by a date specified by the director but no later than 90 days after receiving notice of the designation.

S1.C. General Permit Coverage

1. This permit authorizes the discharge of only those pollutants resulting from the CAFO processes, wastes, and operations that have been clearly identified in the permit application process.

2. This general permit does not cover activities or discharges presently covered by an individual NPDES or Water Pollution Control Facilities (WPCF) permit until the individual permit has expired or been cancelled. If appropriate, any person issued an individual permit may apply for coverage under this general permit and request cancellation of the individual permit.
3. This general permit does not cover disposal of human wastes or waste water control systems that mix human and animal wastes. Any person owning or operating such a system must apply to DEQ for coverage under an individual or general permit issued pursuant to ORS 468B.050. This general permit may be used in addition to an individual or general permit issued by DEQ pursuant to ORS 468B.050.
4. The applicant will be notified in writing when general permit coverage has been granted. Written notification will include a notice of registration entitled *Notice of Registration and Oregon CAFO General Permit Summary* and will include:
 - (a) The owner or operator's name;
 - (b) Facility name;
 - (c) Contact information (i.e., business and mailing addresses, phone numbers and e-mail address);
 - (d) Effective date of general permit coverage;
 - (e) Maximum number of animals allowed at the facility; and
 - (f) Regulatory status of CAFO (e.g. Large or Medium *concentrated* AFO, state CAFO, etc.)
5. Coverage under this general permit will be canceled as to the particular permittee upon the issuance of an individual permit to that permittee.
6. Except for any toxic effluent standards and prohibitions imposed under section 307 of the federal Clean Water Act (CWA) and groundwater protection requirements established under OAR 340-040, a permittee in compliance with this permit during its term is considered to be in compliance, for purposes of enforcement, with state water quality laws and relevant sections of the CWA, as provided in 40 CFR §122.5. The specific effect of permit compliance on enforcement authority is set out in OAR 340-045-0080.

S1.D. Request for Cancellation

1. Any permittee may request in writing to ODA that coverage under this permit be cancelled if:
 - (a) Conditions or standards have changed so that the source or activity no longer qualifies for this permit;
 - (b) The facility no longer has animals on site and all waste storage and control facilities have been decommissioned in accordance with NRCS conservation practice standard, code 360, entitled *Closure of Waste Impoundments*, dated February 2000; and
 - (c) The permittee certifies that it will not commence operations at the same location without making a new application for registration under this general permit and is granted coverage or applies for and is issued an individual permit.
2. ODA will respond to the request for cancellation by conducting a site inspection and a review of the permit file. The director will notify the permittee in writing of termination of coverage under the general permit or deny the request with an explanation of why the request was denied.

S1.E. Individual Permit Coverage

1. When appropriate, the director may require any person to obtain an individual permit pursuant to OAR 340-045-0033(9). In such cases, the person will be notified in writing by the director. This written notice will include the reason why an individual permit is being required, an application form, the amount of the permit fee due at application, and application due date.
2. If coverage under this permit has been obtained prior to the requirement for an individual permit, this permit will remain effective until the individual permit is issued provided the application for individual permit was properly made.

S1.F. Definitions

1. "25-year, 24-hour rainfall event" or "100-year, 24-hour rainfall event" means an event with a probable recurrence interval of once in twenty-five years or one hundred years, respectively, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, or equivalent regional or state rainfall probability information developed from this source.
2. "40 CFR §122" or "40 CFR §123" or "40 CFR §412" means the Code of Federal Regulations as amended by 68 FR 7176 (2/12/03).
3. "Animal feeding operation" or "AFO" as defined in 40 CFR §122.23(b)(1) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
 - (a) 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
 - (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
4. "CAFO" or "Confined animal feeding operation" as defined in OAR 603-074-0010(3) means:
 - (a) The concentrated confined feeding or holding of animals or poultry, 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 lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or
 - (ii) That have wastewater treatment works; or
 - (iii) That discharge any wastes into waters of the state; or
 - (b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR §122.23 (see definition S1.F.5, p. 5 below).
5. "Concentrated animal feeding operation" or "concentrated AFO" as defined by 40 CFR §122.23(b)(2) means an AFO that is defined as a Large or Medium concentrated AFO, or that is designated as a Small concentrated AFO (see definition S1.F.5(c), p. 6 below). 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.
 - (a) An AFO is defined as a Large concentrated AFO 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)
 - (b) An AFO is defined as a Medium concentrated AFO if:
 - (i) The type and number of animals that it stables or confines falls within any of the following ranges:
 1. 200 to 699 mature dairy cattle, whether milked or dry;
 2. 300 to 999 veal calves;
 3. 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;

4. 750 to 2,499 swine each weighing 55 pounds or more;
 5. 3,000 to 9,999 swine each weighing less than 55 pounds;
 6. 150 to 499 horses;
 7. 3,000 to 9,999 sheep or lambs;
 8. 16,500 to 54,999 turkeys;
 9. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
 10. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
 11. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system);
 12. 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or
 13. 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:
1. Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
 2. Pollutants are discharged directly into waters of the United States that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
- (c) An AFO is a Small concentrated AFO if it is designated by the director as a concentrated AFO in accordance with the process outlined in 40 CFR §122.23(c) and is not a Medium or Large concentrated AFO.
6. "Director" means the director of the State of Oregon Department of Environmental Quality and the Department of Agriculture or their authorized designee(s).
7. "Discharge" means:
- (a) The discharge of a pollutant;
 - (b) Any addition of any pollutant or combination of pollutants to waters of the state from any point source;
 - (c) A discharge of pollutants into waters of the state through a manmade ditch, flushing system or similar manmade conveyance; or
 - (d) The application of process wastes to land not consistent with the times and/or rates specified in the waste management plan, in a manner that is likely to result in contamination of waters of the state.
8. "Groundwater" and "Underground water" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.
9. "Manure" means manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.
10. "New source" as defined 40 CFR §122.2 means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced after April 14, 2003.
11. "Overflow" means the discharge of manure or process waste water resulting from the filling of waste water or manure storage structures beyond the point at which no more manure, process waste water, or storm water can be contained by the structure.
12. "Person" as defined in OAR 603-074-0010(11) means the United States and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other legal entity whatever.
13. "Pollutant" as defined in 40 CFR §122.2 means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:
- (a) Sewage from vessels; or

- (b) Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.
14. "Pollution" or "water pollution" as defined in ORS 468.005(3) means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, that will or tends to, either by itself or in connection with any other substance, create a public nuisance or that will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
15. "Process waste water" or "process wastes" means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process waste water or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.
16. "Production area" means that part of a CAFO 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 areas include but are not limited to settling basins, and areas within berms and diversions that 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 animal mortalities.
17. "Waste Management Plan" or "animal waste management plan" or "AWMP" means a written plan containing the minimum elements necessary to manage manure, litter and process waste water from CAFOs in accordance with the terms and conditions of this permit. See S3.C, p. 10 for specific plan elements.
18. "Wastes" as defined in ORS 468B.005(7) means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive or other substances that will or may cause pollution or tend to cause pollution of any waters of the state.
19. "Waste storage facilities" means the physical system used for the isolation and retention of process wastes on the confined animal feeding operation until their ultimate utilization.
20. "Waste water control facility" means a "disposal system" or "treatment works" as defined in ORS 468B.005 that may cause pollution of surface water or groundwater and is used for collecting, conveying, treating, stabilizing or storing manure, litter, process waste water, or contaminated production area drainage (i.e., silage leachate, contaminated storm water runoff, etc.) at confined animal feeding operations.
21. "Water" or "waters of the state" as defined in ORS 468B.005(8) include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon 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 effect a junction with natural surface or underground waters), that are wholly or partially within or bordering the state or within its jurisdiction.

S2. DISCHARGE LIMITATIONS AND OPERATING REQUIREMENTS

S2.A. Discharge Limitations

The permittee is prohibited from discharging process wastes to surface water or groundwater of the state, except as allowed in S2.B and S2.C and provided these discharges do not cause or contribute to a violation of state water quality standards. Discharges to surface water due to upset or bypass are authorized only in accordance with applicable requirements in G3, p. 15, and G4, p. 16.

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 improper land application activities from surface drainages, field tile outlets, or seepage below the root zone; discharges due to equipment failure; leakage or seepage from facilities in the production area in excess of approved designs.

S2.B. Production Area Limitations

1. For all CAFOs, except new source swine, poultry, and veal Large concentrated AFOs:
Discharges of process waste water to surface waters of the state are prohibited, except when rainfall events cause an overflow of process waste water from a facility designed, constructed, operated, and maintained to contain all process-generated waste waters plus the runoff and direct precipitation from a 25-year, 24-hour rainfall event.
2. For new source swine, poultry, and veal Large concentrated AFOs:
Discharges of process waste water to surface waters of the state are prohibited, except when rainfall events cause an overflow of process waste water from a facility designed, constructed, operated, and maintained to contain all process-generated waste waters plus the runoff and direct precipitation from a 100-year, 24-hour rainfall event.
3. All authorized discharges from the production area must be properly land applied or otherwise handled in a way that minimizes impacts on surface water or groundwater of the state.
4. Seepage to groundwater from waste storage or animal confinement facilities must not exceed design rates as approved by ODA or violate state groundwater quality protection standards.

S2.C. Land Application Limitations

1. When applying manure, litter, and process wastes to lands, the permittee must apply at agronomic rates in accordance with proper agricultural practices. If a waste management plan has been approved by ODA, applications must also be performed as specified in that plan. Land application areas include land under the control of the permittee, whether it is owned, rented, or leased, to which manure, litter, or process waste water from the production area is or may be applied.
2. Waste applications must not exceed the capacity of the soil and crops to assimilate nutrients and minimize water pollution, must be quantifiable, and based on the NRCS Phosphorous Index, Agronomy Technical Note #26, revised October 2001, and must account for all other nitrogen, phosphorus, and potassium sources.
3. Discharges to groundwater due to seepage below the root zone of the crop or by other means must not violate state groundwater quality protection standards.
4. If discharge to surface water or groundwater will result, application to flooded, saturated, frozen or snow covered land is prohibited. Land application of wastes or waste water during rainfall events that are expected to result in saturated soils or surface runoff is prohibited.

S2.D. Direct Access by Animals to Surface Water in the Production Area Prohibited

Direct animal contact with surface waters of the state in the production area of a CAFO is prohibited. Direct animal contact means any situation where animals in the production area have free access and are allowed to loiter

or drop waste in surface waters. Direct contact with surface waters by animals on pasture or rangeland is not, by itself, a violation of this permit.

S2.E. Waste Storage Facilities

1. The permittee must provide adequate storage capacity for solid and liquid wastes at all times so that land application occurs only during periods when soil and weather conditions allow for agronomic application and are in compliance with the Land Application Limitations in Condition S2.C, p. 8 of this permit.
2. The permittee must site, design, construct, operate, and maintain all waste storage facilities consistent with the waste management plan. New and modified construction of waste facilities must be approved in advance and prior to construction by ODA in conformance with ORS 468B.055, OAR 340-051 and 603-074.
3. The permittee with a Large *concentrated* AFO must also have depth markers in all surface liquid impoundments (e.g., lagoons, ponds, tanks) designed to clearly indicate the:
 - (a) Maximum design volume,
 - (b) Minimum capacity necessary to contain the 25-year, 24-hour rainfall event, or in the case of new source swine, poultry, and veal Large *concentrated* AFOs, the 100-year, 24-hour rainfall event, including additional freeboard requirements, and
 - (c) Depth of manure and process waste water.

S2.F. Prevention of System Overloading

1. The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by ODA in the *Notice of Registration and General Permit Summary* until an updated plan is approved in writing by ODA (see S3.B Plan Submittal, p. 10, and S3.D Plan Updates, p. 11).
2. Animal numbers must not exceed the capacity of the waste storage facilities.

S2.G. Handling of Animal Mortalities

The permittee must not dispose of animal mortalities in liquid manure or waste water control facilities. Animal mortalities must be handled in such a way as to prevent discharge of pollutants to surface water or groundwater.

S2.H. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems used for process waste collection, storage and utilization, and correct any deficiencies found as soon as possible.

S2.I. Maintaining Compliance if System Fails

The permittee, in order to maintain compliance with the permit, must control all applications and discharges upon reduction, loss or failure of the waste storage or utilization facilities until the facilities are restored or an alternative method of storage or utilization is provided. This requirement applies where the primary source of power is reduced, lost, or fails.

S2.J. Setback Requirement for Large *Concentrated* AFOs

In addition to the above conditions, the permittee with a Large *concentrated* AFO must, in the land application area(s), maintain a setback area within 100 feet of any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters where manure, litter, and other process waste waters are prohibited. As a compliance alternative, and if demonstrated to the satisfaction of ODA, the permittee may:

1. Establish a 35-foot vegetated buffer where manure, litter, and other process waste waters are prohibited; or
2. Demonstrate that a setback or vegetated buffer is not necessary or may be reduced.

S3. WASTE MANAGEMENT PLANS

S3.A. Plan Implementation and Compliance

1. Upon receipt of notification by ODA or by December 31, 2006, whichever occurs first, the permittee must implement a current waste management plan developed for its CAFO.
2. The permittee must comply with all terms and conditions of its approved waste management plan. Failure to comply with the approved plan constitutes a violation of the terms and conditions of this permit.
3. Absence of a plan or absence of ODA approval of a plan does not allow the permittee to violate the provisions of S2 Discharge Limitations and Operating Requirements, p. 8 or other permit requirements.

S3.B. Plan Submittal

1. Plans must be submitted to ODA for review and approval according to the following schedule:
 - (a) Newly constructed and new source CAFOs must submit a waste management plan with the ATR.
 - (b) Existing CAFOs must submit a current waste management plan for the facility upon notification by ODA or by July 1, 2006, whichever occurs first.
2. Updates to plans (see S3.D Plan Updates, p. 11) must be submitted to ODA for approval at least 45 days before the facility expansion, production increase or process modification is to be implemented unless a different schedule is allowed by ODA in writing.

S3.C. Plan Elements

1. The waste management plan must be adequate for the existing population of animals and be prepared in accordance with the terms and conditions of this permit, OAR 340-051, and NRCS conservation practice standard guidance 590 for Oregon dated May 2001 entitled *Nutrient Management*.
2. The waste management plan may include a schedule for improvement projects.
3. The waste management plan must to the extent applicable:
 - (a) Ensure adequate collection, handling, and storage of manure, litter and process waste water;
 - (b) Include procedures to ensure proper operation and maintenance of the storage facilities;
 - (c) Ensure proper management of animal mortalities to ensure that they are not disposed of in a liquid manure, storm water, or process waste water storage or treatment system that is not specifically designed to treat animal mortalities;
 - (d) Ensure that clean water is diverted, as appropriate, from the production area;
 - (e) Prevent direct contact of confined animals with surface waters;
 - (f) Ensure that chemicals and other contaminants handled on-site, are not disposed of in any manure, litter, process waste water, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
 - (g) Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to surface water and groundwater;
 - (h) Establish protocols to land apply manure, litter or process waste water in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process waste water. For Large *concentrated* AFOs, these protocols must be based on actual test data. For other CAFOs, data or "book values" from established reference sources (e.g., Oregon Animal Waste Management program) may be used instead of actual testing;
 - (i) For Large *concentrated* AFOs, also identify protocols for appropriate testing of manure, litter, process waste water, and soil. For other CAFOs, identify the references used instead of actual testing data or test protocols if testing; and
 - (j) Identify specific records that will be maintained to document the implementation and management of the minimum elements described above.

S3.D. Plan Updates

1. The permittee must update the waste management plan when facility expansions, production increases, or process modifications will:
 - (a) Result in new or increased generation of waste, litter, or process waste water beyond the scope of the current waste management plan, or
 - (b) Violate the terms and conditions of this permit.
2. The updated waste management plan must be submitted to ODA for approval (see S3.B.2, p. 10, above).
3. The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by ODA in the *Notice of Registration and General Permit Summary* until an updated plan is approved in writing by ODA.

S4. MONITORING, INSPECTION, RECORDKEEPING, AND REPORTING REQUIREMENTS

S4.A. Monitoring Requirements

1. Discharge Monitoring

If a discharge to surface or groundwaters occurs that is not allowed by Condition S2.B or S2.C, p. 8, the permittee must record the following information:

- (a) A description and cause of the discharge;
- (b) The period of discharge including exact dates, times and duration of discharge;
- (c) An estimate of discharge volume;
- (d) Name or location of receiving water; and
- (e) Corrective steps taken, if appropriate, to reduce, eliminate or prevent reoccurrence of the discharge.

2. Analytical Monitoring for Large *concentrated* AFOs

The permittee with a Large *concentrated* AFO, must conduct the following:

- (a) Collect and analyze manure, litter, and other process waste waters annually for nutrient content, including nitrogen and phosphorus.
- (b) At least once during the term of this permit, collect and analyze representative soil samples for phosphorus and nitrogen content from all fields where manure, litter, and other process waste waters are applied.

3. Analytical Monitoring for all other CAFOs

At least once during the term of this permit, the permittee must collect and analyze representative soil samples for phosphorus and nitrogen content from all fields where manure, litter, and other process waste waters are applied.

S4.B. Inspection Requirements

The permittee must:

1. Periodically inspect of all storm water diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to the waste water and manure storage and containment structure. The permittee with a Large *concentrated* AFO must conduct and record these inspections weekly.
2. Periodically inspect water lines, including drinking water or cooling water lines. The permittee with a Large *concentrated* AFO must conduct and record these inspections daily.
3. Periodically conduct leak inspections of equipment used for land application of manure, litter, or process waste water. The permittee with a Large *concentrated* AFO must record the results of these periodic inspections.
4. The permittee with a Large *concentrated* AFO must inspect liquid impoundments for manure and process waste water on a weekly basis and record the depth of manure and process waste water in those impoundments as indicated by the depth marker required by S2.E.3, p. 9.
5. Any deficiencies found as a result of these inspections must be corrected as soon as possible. The permittee with a Large *concentrated* AFO must record any actions taken to correct these deficiencies and, if deficiencies are not corrected within 30 days, provide an explanation of the factors preventing immediate correction.

S4.C. Record Keeping and Availability Requirements

1. The permittee must maintain all information required by this permit at the facility for at least five years and make this information available to ODA upon request.
2. Upon obtaining general permit coverage, Large *concentrated* AFOs must begin recording the following information. Other CAFOs must begin recording the following information upon ODA approval of the waste

management plan or by December 31, 2006, whichever occurs first. The permittee must maintain this information at the facility for at least five years and make this information available to ODA upon request. (Note: If any of the following information is provided in the permittee's waste management plan, a separate record keeping effort is not required.)

- (a) Expected crop yields.
- (b) Date, amount, and nutrient loading of manure, litter, or process waste water applied to each field.
- (c) For Large *concentrated* AFOs, weather conditions at the time of application and 24 hours before and after application.
- (d) Explanation of the basis for determining annual manure application rates, as provided in the technical standards established by ODA.
- (e) Calculations showing the total nitrogen and phosphorus to be applied annually to each field, including sources other than manure, litter, or process waste water.
- (f) Total amount of nitrogen and phosphorus actually applied annually to each field, including documentation of calculations of the total amount applied.
- (g) Method(s) used to apply the manure, litter, or process waste water.
- (h) Total amount of manure or waste water transferred to other persons. Large *concentrated* AFOs must also include the date and amount of each transfer and the name and address of each recipient.
- (i) For Large *concentrated* AFOs, animal mortalities management and practices used to meet the requirements of S2.G, p. 9.

S4.D. Reporting Requirements

1. 24-hour Reporting

- (a) If a discharge to surface water or groundwater occurs that is not allowed by Condition S2.B and S2.C, p. 8, the permittee must notify ODA within 24 hours of the discharge.

The permittee must submit a written report within five (5) days to ODA. The information to be submitted is listed in the monitoring requirements (Condition S4.A, p. 12 above) of this permit.

- (b) The permittee must report to ODA within 24 hours of becoming aware of any significant physical failure at any time of a waste water control facility required under this permit.

2. Annual Report

The permittee must submit an annual report by March 15 of each year to ODA. The annual report must include the following for the previous calendar year:

- (a) Maximum number and type of animals, whether in open confinement or housed under roof (i.e., beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- (b) Estimated amount of total manure, litter and process waste water generated by the CAFO (tons/gallons);
- (c) Estimated amount of total manure, litter and process waste water transferred to other persons by the CAFO (tons/gallons);
- (d) Total number of acres for land application covered by the waste management plan developed in accordance with the terms of this permit;
- (e) Total number of acres under control of the CAFO that were used for land application of manure, litter and process waste water in the previous 12 months;
- (f) Summary of all manure, litter and process waste water discharges from the production area that have occurred, including date, time and approximate volume; and
- (g) If the CAFO has a current waste management plan, a statement indicating whether the plan was developed or approved by a certified waste management planner.

3. Manure, Litter, or Process Waste Water Transfers

Prior to transferring manure, litter, or process waste water to other persons, Large *concentrated* AFOs must provide the recipient of manure, litter, or process wastewater with the most current nutrient analysis available.

S4.E. Additional Monitoring

ODA may establish specific monitoring requirements in addition to those contained in this permit by administrative

order. An administrative order is an agency action expressed in writing directed to a named person or named persons (ORS 183.310).

GENERAL CONDITIONS

G1. Discharge Violations

All land application of wastes and other activities authorized by this permit must be consistent with the terms and conditions of this permit. The application or discharge of any process waste more frequently than, or at a concentration in excess of, that authorized by this permit will constitute a violation of the terms and conditions of this permit.

G2. Noncompliance Notification

- A. If for any reason, the permittee does not comply with, or will be unable to comply with any of the requirements or conditions specified in the permit, the permittee must, at a minimum, provide ODA with the following information:
1. A description of the nature and cause of noncompliance, including the quantity and quality of any unauthorized waste discharges;
 2. The period of noncompliance, including exact dates and times, and the anticipated time when the permittee will return to compliance; and
 3. The steps taken, or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.
- B. In addition, the permittee must take immediate action to stop, contain, and clean up any unauthorized discharges and take all reasonable steps to minimize any adverse impacts to waters of the state and correct the problem. The permittee must notify ODA by telephone so that an investigation may be made to evaluate any resulting impacts and the corrective actions taken to determine if additional action should be taken.
- C. In the case of any discharge subject to any applicable toxic pollutant effluent standard under Section 307(a) of the Clean Water Act, or that could constitute a threat to human health, welfare, or the environment, 40 CFR §122 requires that the information specified in conditions G2.A.1, G2.A.2, and G2.A.3 above, be provided not later than 24 hours from the time the permittee becomes aware of the circumstances. If this information is provided orally, a written submission covering these points must be provided within five days of the time the permittee becomes aware of the circumstances, unless ODA waives or extends this requirement on a case-by-case basis.
- D. Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or resulting liability for failure to comply.

G3. Bypass

- A. Definitions.
1. "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.
 2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes 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. Prohibition of bypass.
1. Bypass is prohibited unless:
 - (a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;
 - (b) 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. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

- (c) The permittee submitted notices and requests as required under G3.C below.
 - 2. The director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the director determines that it will meet the three conditions listed above in G3.B.1.
- C. Notice and request for bypass.
- 1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee must submit prior written notice, if possible at least ten days before the date of the bypass.
 - 2. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in S4.D.1.

G4. Upset

- A. Definition.
“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative 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 G4.C are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- C. Conditions necessary for a demonstration of upset.
A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- 1. An upset occurred and that the permittee can identify the causes(s) of the upset;
 - 2. The permitted facility was at the time being properly operated;
 - 3. The permittee submitted notice of the upset as required in S4.D.1; and
 - 4. The permittee complied with any remedial measures required under G2.B.
- D. Burden of proof.
In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

G5. Right of Inspection

The permittee must allow the director or an authorized representative of the director, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the property where a potential or actual discharge is located;
- B. To have access to and copy at reasonable times any records that must be kept under the terms of the permit;
- C. To inspect at reasonable times any monitoring equipment or method of monitoring required in the permit;
- D. To inspect at reasonable times any collection, treatment, pollution management, or application facilities; and
- E. To sample any waters of the state or discharge of pollutants.

G6. Permit Registration Modified or Revoked

- A. After notice, registration under this permit may be modified or revoked as it applies to any person for cause as follows:
- 1. Violation of any terms or conditions of the permit,
 - 2. Failure of the permittee to disclose fully all relevant facts, or misrepresentations of any relevant facts by the permittee during the permit issuance process and during the life of the permit;
 - 3. Failure to pay permit fees when due;
 - 4. Information indicating that the permitted operation poses a threat to human health or welfare;
 - 5. A change in ownership or control of the operation, or
 - 6. Other causes listed in 40 CFR §122.62 and 122.63.
- B. Modification or revocation of coverage under this permit as it applies to any person may be initiated by ODA.

C. Issuance of coverage under an individual permit may be initiated by ODA in accordance with Condition S1.E.

G7. Revocation for Non-Payment of Fees

The director may revoke registration under this permit if the permit fees established under Oregon Administrative Rules are not paid when due.

G8. Compliance With Other Laws and Statutes

Nothing in the permit will be construed as excusing the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G9. 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 have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit. The director may grant permission in writing to submit an application less than 180 days in advance but no later than the permit expiration date.

G10. Change of Ownership or Control

The permittee must notify ODA in writing thirty (30) days prior to a change in facility ownership or control.

G11. Other Requirements of 40 CFR

All other requirements of 40 CFR §122.41 *Conditions applicable to all permits* and §122.42 *Additional conditions applicable to specified categories of NPDES permits* are incorporated in this permit by reference.