NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CWA SPDES GENERAL PERMIT

FOR

CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)

Permit No. GP-0-16-002

Issued Pursuant to Article 17, Titles 7 & 8, and Article
70 of the Environmental Conservation Law

Issued Date: January 25, 2017
Effective Date: July 24, 2017 Expiration Date: July 23, 2022

John J. Ferguson
Chief Permit Administrator

Authorized Signature Date

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PREFACE

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

This general permit is issued pursuant to Article 17, Titles 7 & 8 and Article 70 of the ECL. An *owner or operator* may apply for coverage under this General Permit by submitting a Notice of Intent (NOI) and Annual Nutrient Management Plan (ANMP) to the Department. Copies of this General Permit and the NOI for New York are available by calling (518) 402-8111 or at any Regional Office (see Appendix D). They are also available on the Departments website at:

http://www.dec.ny.gov

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

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I. PERMIT COVERAGE AND LIMITATIONS

A. Permit Coverage

1. Eligibility under GP-0-16-002

   a) Unless excluded from coverage in accordance with Part I.A.3. of this permit, the following CAFO owners/operators are eligible for coverage under this general permit if they fully implement all required practices identified in the Comprehensive Nutrient Management Plan (CNMP) and are complying with the terms of this general permit:

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

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

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

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

3. Exclusions from Coverage Under this Permit:

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

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

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

B. Permit Limitations

Effluent Limitations for CAFOs: The following limitations establish the quantity or quality of pollutants which may be discharged by a CAFO in compliance with this general permit.

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

   There shall be no discharge of process wastewater pollutants to the *surface waters of the State* from the production area. The CNMP must include Wet Weather Standard Operating Procedures[1] that are

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[1] Wet Weather Standard Operating Procedures are those management strategies, which together with structural and non-structural BMPs, determined by the planner and employed by the facility to prevent discharges to *surface*

determined by the planner for all BMPs necessary to meet this no discharge limitation.

2. All other CAFO's:
   Except as provided in 2.a) of this section, there shall be no discharge of process waste water pollutants to the *surface waters of the State* from the production area.

   a) Whenever precipitation causes an overflow of process wastewater, pollutants in the overflow may be discharged to *surface waters of the State* provided:
      (1) The production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event;
      (2) The production area is operated in accordance with all other additional measures and records required by this general permit.

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

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

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

5. Construction Activity: This general permit does not relieve an owner or operator of a facility with coverage under this general permit of the requirement to also obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities, where necessary. Prior to commencing any construction activity at the facility, the owner or operator must comply with the requirements in Appendix B of this general permit.

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

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

Commented [A1]: This sentence should also include "chemicals and other contaminants handled onsite," unless the storage or treatment systems is "specifically designed to treat such chemicals and other contaminants." See 40 C.F.R. 122.42(e)(1)(v).

II. OBTAINING/TERMINATING/CHANGING PERMIT COVERAGE

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

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

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

Every owner/operator seeking coverage under this general permit must submit to the Department a completed farm-specific Notice of Intent (NOI) and ANMP. The ANMP must contain all of the information specified in Appendix C of this general permit, which includes a CNMP certification.

The completed NOI must be signed by the owner/operator and the ANMP must be signed by the owner/operator and the AEM certified planner in accordance with Part V.G. of this general permit. Within 60 calendar days after the Department receives the completed NOI and ANMP: the availability of the NOI and ANMP will be posted to the Environmental Notice Bulletin; the public will be afforded 30 days to review, comment, and/or to request a hearing; and the Department will review the completed NOI and ANMP and will notify the applicant if coverage under this general permit has been approved. Coverage does not become effective until approved by the Department. The owner/operator shall maintain in their on-site records a copy of all documents described in Part IV.G.1 in accordance with Part IV.I. of this general permit. In addition, the owner/operator that seeks coverage under this general permit must comply with the requirements below.

1. CWA Permitted CAFO: Facilities with effective coverage under the *SPDES General Permit for Concentrated Animal Feeding Operations (CAFOs) (GP-04-02)* will maintain permit coverage under GP-04-02 until the effective date of this general permit. The owner/operator must ensure all BMPs identified in the CNMP meet the requirements of this general permit and are fully implemented prior to submission of the complete NOI form and ANMP (with the exception being the latest NY 590 which must be implemented by the beginning of the first full crop year after the effective date of this permit).
2. Existing Facilities Not Previously Covered by a CAFO SPDES Permit: Existing facilities not previously covered by a CAFO SPDES permit must have fully implemented all required practices identified in the CNMP and be complying with the terms of this general permit prior to submitting the complete NOI form and ANMP.
3. New CAFO: In addition to the documentation in Part II.A, owners/operators of new CAFOs that seek coverage under this general permit must submit a certification that all required practices identified in the CNMP have been fully implemented *at least* 60 calendar days prior to becoming *operational*.

4. ECL Permitted CAFO: Owners/Operators of CAFOs with ECL CAFO SPDES General Permit (GP-0-14-001 or GP-0-16-001) coverage that are eligible to be covered by this general permit, and seek coverage under this general permit, must ensure all BMPs identified in the CNMP meet the requirements of this general permit and are fully implemented prior to submission of the complete NOI form and ANMP. Once coverage commences under this general permit, coverage under the ECL CAFO SPDES General Permit will automatically be terminated.

B. Duty to File Change of Operation Form

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

2. Change in Operation
   a) The owner or operator shall amend and implement the CNMP in accordance with Part III.A.3 and Part III.E of this general permit, and submit a completed *Change of Operation* form, signed by the owner/operator and the AEM certified planner, in accordance with the following schedule:
      (1) At least 15 calendar days before the CAFO expands its operation and increases the number of animals 20% above the number specified in the existing CNMP;
      (2) At least 30 calendar days before constructing or expanding a liquid waste storage facility by greater than one million gallons;
      (3) At least 15 calendar days before an existing *Small* or *Medium CAFO* expands to a *Medium* or *Large CAFO*;
      (4) Within 30 calendar days after an AFO or CAFO is acquired by an existing, permitted CAFO;

Commented [A2]: See comments in Appendix A. All changes that affect the NMP must be reviewed, approved and publicized before being implemented, and substantial changes must be reviewed, approved, publicized, and subject to public comment/hearing. 40 C.F.R. 122.42(e)(6) Substantial changes are not limited to these items, and must include all of the types of changes listed under 40 C.F.R. 122.42(e)(6)(iii)
See also 40 C.F.R. 122.62-63

(5) Within 30 calendar days after the CAFO downsizes from a Large CAFO to a Medium CAFO; or

(6) Within 15 calendar days of modifying any of the contact information related to Part III.A.1. of this general permit.

C. Duty to File Notice Of Termination

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

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

III. COMPREHENSIVE NUTRIENT MANAGEMENT PLANS

CNMPs shall be developed and maintained for each CAFO covered by this general permit. The CNMP shall be prepared in accordance with Part III.A.4 of this general permit and include all measures necessary to prevent pollutants in runoff. The CNMP shall describe and document the implementation of the practices that are to be used to assure compliance with the conditions of this permit.

A. Minimum CNMP Content

1. **Contact Person**: Within the CNMP, the owner/operator shall identify a specific individual(s) at the CAFO who is responsible for the implementation, maintenance, and revision of the CNMP in conjunction with an AEM certified planner. The activities and responsibilities of the CNMP personnel shall address all aspects of the CAFO's CNMP. Any modified contact information must be provided to the Department Regional Water Engineer (Appendix D) within 15 days of change.

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

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

   a) For any CAFOs expanding operations:

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

   b) For any new CAFOs:

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

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

      (1) to the maximum extent practicable, the acquired AFO or CAFO operations shall be incorporated into the permitted CAFOs operations immediately[2];

      (2) an AEM certified planner must visit and evaluate the site of the acquired operation, work with the owner or operator to identify any discharges, and submit a "Change Of Operation" form to the Department within 30 calendar days of acquisition;

[2] The owner/operator shall incorporate any operations at the newly acquired facility into their current operations to the maximum extent practicable, so as to address potential impacts from the acquired facility which is not yet fully implemented.

(3) within 6 months of acquisition, all required non-structural BMPs must be implemented (unless the AEM certified planner and the owner/operator determine that a structural BMP not yet installed is required in order for the non-structural BMP to be fully operational) and a CNMP Certification submitted to the Department;

(4) all required structural BMPs must be implemented as soon as possible, but not to extend beyond 24 months of the acquisition. Upon completion of the above, the owner/operator must submit to the Department a certification that all required practices identified in the CNMP have been fully implemented.

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

(1) PE evaluations and certifications necessary to comply with Part III.A.4 of this general permit are required to be completed within 12 months of filing the NOI.

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

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

a) At a minimum, the following NRCS Standards shall be implemented when applicable and as determined by an AEM certified planner. Further, if a planner deems an additional NRCS Standard practice necessary to meet compliance with one of these minimum NRCS Standards, the additional NRCS Standard is required to be implemented:

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

(5)	Vegetated Treatment Areas – NY 635	10/2016
(6)	Heavy Use Area Protection – NY 561	10/2016
(7)	Waste Facility Closure – NY 360	10/2013
(8)	Karst Sinkhole Treatment – NY 527	10/2016
(9)	Animal Mortality – NY 316[3]	04/2016
(10)	Composting Facility – NY 317	05/2011

b) Existing Open Waste Storage Structures, that do not have a design report or as-builts containing soil sample test results and signed by a *qualified professional;* or that do not have an existing certification from a *qualified professional* documenting equivalence to one of the 08/2006 through 10/2014 versions of NY 313 NRCS Standard; must be evaluated[4] by a Professional Engineer licensed to practice in New York State (PE), in accordance with the "AEM Tool for the Evaluation of Undesigned Waste Storage Facilities". Any deficiencies and required improvements identified must be implemented in accordance with the CNMP implementation schedule. Following implementation of the required improvements, the PE, shall certify, in writing, that the required improvement(s) were completed to meet the NY 313 NRCS 10/2014 Standard. Documentation of the evaluation, required improvements and certification shall be maintained on-site by the CAFO.

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

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

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

d) Existing Permanent Waste Transfer Systems

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

(1) pressurized systems extending beyond the production area;

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

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

e) If the AEM certified planner and/or the *qualified professional* for the CAFO, utilizing guidance from the Department, NRCS standards and AEM guidelines, deems any existing BMPs to be functioning as designed, to substantially meet the intent of the applicable NRCS standard in place at the effective date of this general permit, and to be adequately protecting surface and groundwater quality, the CAFO shall:

(1) Document this consideration in the CNMP and in that year's Annual Compliance Report (including any differences);

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

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

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

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

6. **Emergency Action Plan**: Every CNMP must include an emergency response plan for manure, process wastewater and pesticide spillage, fuel handling and storage, and catastrophic emergency situations. This plan shall include the following components:

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

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

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

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

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

   a) **Prohibited Conditions.**

      (1) Saturated Conditions.

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

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

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

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

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

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

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

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

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

d) **Wet Weather Applications**. If applications of manure, litter, food processing waste, digestate, or process wastewater during wet weather, or forecasted wet weather are necessary, recommendations contained in the 2015 Cornell Guide, "Revised winter and wet weather manure spreading guidelines to reduce water contamination risk", should be followed. In no case can applications be made on saturated soils per Part III.A.7.a.1 of this permit.

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

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

(a) Public & Private water wells;

(b) Carbonate shallow bedrock;

(c) Thin soils over any shallow bedrock;

(d) Any soils with rapid drainage;

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

(f) Areas with historical well contamination problems.

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

(a) Time of year;

(b) Rainfall forecast;

(c) Expected nutrient demands;

(d) Runoff potential; and

(e) Uniformity of spreading.

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

(1) the top of the bank of any down-gradient *surface waters of the State*, including both perennial and intermittent streams, when the application area is up-gradient to the top of the bank;
(2) to a New York State Regulatory Freshwater Wetland with a surface connection to the field; or
(3) to an open tile line intake structure, sinkhole, or other down-gradient direct conduits to surface or ground waters;

Unless the CAFO exercises one of these options:

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

(b) **Alternative Practice**. Substitute the 100 foot-setback described above with a 15-foot wide setback to down-gradient waters as described above when manure, litter, food processing waste, digestate, and process wastewater is applied under the conservation practice of incorporation within 24 hours of the application as documented in the CNMP.

g) **Food Processing Waste**. As set forth in NRCS NY590, land application of food processing waste shall consider any and all necessary measures to minimize odors, such as incorporation, injection, and appropriate use of timing to avoid creating a nuisance. Specifically, the CNMP must ensure the following:

(1) Food Processing Wastes Containing Salt. The land application rates of food processing waste containing salt shall not exceed a chloride loading of 170 lbs. per acre per year.
(2) Waste without Benefit. Land application of undigested fats, oils, and grease (FOG), or other waste with no quantifiable nutritive benefit to the soil or crop is not allowed.

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

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

B. Additional CNMP Content

1. Non-Contact Cooling Water (NCCW) Systems.
   a) Nontrout waters. Where the source for these systems is well water, this general permit authorizes the NCCW discharge up to 100,000 gallons per day to *surface waters of the State* classified as nontrout waters, given the following conditions are met:
      (1) NCCW is reused on-site to the maximum extent practicable (ie. used for drinking water, washdown, etc.) and reuse is described in CNMP;
      (2) discharge contains no chemical additives or other pollutants which may cause or contribute to a Water Quality Standards violation;
      (3) discharge does not exceed 70° F;
      (4) discharge does not result in a nuisance such as, erosion, staining, icing, etc. and does not have a sheen at discharge point;

2. Retention facilities and structures must be designed, constructed, and operated to prevent the discharge of all manure, litter, food processing waste, digestate, process wastewater and the contaminated runoff from a 25-year, 24-hour rainfall event for the location of the production area, unless otherwise indicated elsewhere in this general permit. Calculations may also include allowances for surface retention, infiltration, and other site- specific factors.

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

    a) The maximum operating level for open waste storage structures, earthen and fabricated, shall be indicated by a depth marker and be the level that provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one (1) foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The minimum design storage volume includes the volume needed for manure, litter, food processing waste, digestate, and process wastewater storage according to the CNMP in accordance with the NRCS NY313 Standard Design criteria.

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

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

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

5. Leachate collection and control facilities must be implemented, operated and maintained in accordance with all applicable NRCS standards to prevent overflow or discharge of the concentrated, low-flow leachate products. If an AEM certified planner deems low-flow leachate collection unnecessary, a detailed description of the monitoring strategy necessary for this determination must be included in the CNMP. This monitoring strategy must be site-specific and, at a minimum, include documented on-going inspections of the feed storage area to verify low-flow leachate is not leaving the pad. Furthermore, high-flow leachate must be treated by a VTA or a system which provides equivalent protection to a VTA.

6. Barnyards[5] and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, diversions or other such structures designed to carry peak flows expected at times when, the 25-year, 24-hour rainfall event occurs. In addition, barnyard runoff must be managed in accordance with applicable NRCS standards and to prevent overflow or discharge of solids. If an AEM certified planner deems solids collection unnecessary, a detailed description of the monitoring strategy necessary for this determination must be included in the CNMP. This monitoring strategy must be site-specific and, at a minimum, include documented on-going inspections of the barnyard perimeter to verify solids are not contained in runoff. Furthermore, high-flow runoff must be treated by a VTA or a system which provides equivalent protection to a VTA.

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

7. Facilities shall not expand operations, either in size or numbers of animals, prior to amending or enlarging the waste-handling procedures and structures to accommodate any additional wastes that will be generated by the expanded operations, unless the existing facilities have been designed to accommodate such expansion.

8. New facilities and new structures for existing facilities shall not be built in a *surface water of the State*, including wetlands, and must be built outside of the 100-year floodplain unless protected from inundation by the 100-year flood as documented by a Professional Engineer currently licensed to practice in New York State. In addition, any newly constructed waste storage facilities or feed storage/treatment structures, with the exception of hoppers and small tanks used to transport waste from an existing facility to a permanent waste storage structure, must maintain a minimum natural flow path of at least 100 feet to any NYS classified stream or protected waterbody as determined by 6 NYCRR Parts 608 and 800-941, or Title 5 of Article 15 of the NYS ECL as seen on the NYS Environmental Resource Mapper.

9. Animals confined in the animal feeding operation must be prevented from coming in contact with the *surface waters of the State* while in the confinement area.

10. There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted CAFO. New retention facilities and structures, holding pens or waste/wastewater treatment sites shall not be located closer to existing public or private water wells than the distances specified by State regulations or health codes or State-issued permits.

11. Pesticides: The operator shall prevent the discharge of pesticides into waters of the State, unless done in accordance with a SPDES permit. All pesticide, herbicide and fungicide products used at the CAFO must be registered with New York State and applied in accordance with the label directions. Any use contrary to the legal label is a violation of Federal and State Pesticide Law. Certification of pesticide applicators may be required. All wastes from dipping vats, pest and parasite-control units, and other facilities used for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent pollutants from entering the waters of the State.

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

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

    a) Maintain records showing the date and amount of manure, litter, food processing waste, digestate, and process wastewater that leave the permitted operation;

    b) Record the name and address of the recipient;

    c) Provide the recipient(s) with representative information on the nutrient content of the manure, litter, food processing waste, digestate, and process wastewater as exported; and

    d) Retain these records on-site, for a period of five years, and submit to the Department upon request.

    e) Additionally, any applications not meeting the definition of *export*, as defined in Appendix A, must be made in accordance with the CNMP of the permit holder.

C. Planner On-Site CNMP Review:

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

D. Certification of the CNMP

The CNMP must be developed or reviewed by an AEM certified planner. The owner/operator *and* the AEM certified planner shall certify in accordance with the CNMP Certification form or Annual NMP submittal form that the CNMP has been prepared in accordance with "all applicable NRCS Conservation Practice Standards" and this General Permit. CNMP development and certification shall be completed in accordance with Part II.A and Part III.A.3 of this general permit.

E. Duty to Amend the CNMP

All changes in the operation of the CAFO or implementation of the CNMP as required by this general permit shall be recorded in the CNMP. The owner/operator shall amend the CNMP under the direction of an AEM certified planner in accordance with the following conditions:

Commented [A3]: As discussed in Appendix A, all changes that affect the NMP must be reviewed, approved and publicized before being implemented, and substantial changes must be reviewed, approved, publicized, and subject to public comment/hearing. 40 C.F.R. 122.42(e)(6) Substantial changes are not limited to these items, and must include all of the types of changes listed under 40 C.F.R. 122.42(e)(6)(iii)
See also 40 C.F.R. 122.62-63
Any changes to the CNMP that affect the minimum requirements of the NMP under 40 C.F.R. 122.42(e)(1) must also be made to the ANMP.
This comment applies to this whole section

1. Annually. The CNMP must be updated annually to ensure continued compliance with this general permit. This annual update shall include a re-evaluation of the required storage volume for waste storage structures in order to ensure the CAFO remains compliant with the terms of this general permit.

2. Prior to:

   a) any change in design, construction, operation, or maintenance that has the potential to impact the discharge of pollutants from the operation to the *surface waters of the State*;

   b) constructing or expanding a liquid or semisolid waste storage facility by greater than one million gallons. This update requires the submission of a *Change of Operation* form in accordance with Part II.B.2. of this general permit; or

   c) expanding operations beyond the contingencies specified in the CNMP. Specifically this provision requires the number of animals planned for under the existing CNMP to be clearly identified and any changes that would exceed the design capabilities of the current operating system(s) for the CAFO to be described in the CNMP. In addition, at least 15 days *prior to* increasing the number of animals 20% above the number specified in the existing CNMP, the owner or operator must update its CNMP consistent with the permit requirements and update all system components identified as being in need of upgrading in accordance with current NRCS standards including, but not limited to, the addition of any necessary waste storage capacity, feed storage treatment or additional lands for manure, litter, food processing waste, digestate, and process wastewater applications. This update requires the submission of a *Change of Operation* form in accordance with Part II.B.2. of this general permit.

3. If the CNMP proves to be ineffective in preventing pollutants in discharges from the CAFO.

4. All other revisions to the CNMP, conducted in accordance with all applicable NRCS standards, are not considered major changes. However, they must be noted in the annual compliance report submittal as applicable.

5. The Department may provide written notice to the owner/operator that the CNMP does not meet one or more of the minimum NRCS Standards listed in Part III.A.4.a. After such notification, the owner/operator shall make changes to the CNMP within 90 days after such notification, unless otherwise directed by the Department.

F. Compliance with CNMP

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

IV. MONITORING, REPORTING & RETENTION of RECORDS

A. Anticipated Non-Compliance

The owner/operator shall give at least 45 days prior advanced notice to the appropriate Department Regional Water Engineer (Appendix D) in accordance with 6 NYCRR Part 750-2.7(a)(1) of any of the following, that is very likely or certain to result in non-compliance with any general permit requirements and where the owner/operator knows or has reason to know about such anticipated non-compliance 60 or more days before it occurs:

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

B. Overflow and Discharge Reporting

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

1. ***Twenty-four Hour Reporting***: Notify the Department Regional Office (Appendix D) orally within 24 hours from the time that the owner/operator becomes aware of the discharge or overflow in accordance with 6 NYCRR Part 750-2.7(c);
2. ***Five-day Reporting***: Submit a written CAFO Incident Report to the Department Regional Office (Appendix D) within 5 business days from the time that the owner/operator becomes aware of the discharge or overflow in accordance with 6 NYCRR Part 750-2.7(d).

C. All Other Non-Compliance

The owner/operator shall report all other instances of non-compliance with permit conditions not otherwise required to be reported under this permit in the submittal of the Annual Compliance Report.

D. Annual Compliance Report

The owner/operator shall submit an Annual Compliance Report form to the Department. The report shall be for the previous calendar year and must be submitted by March 31st of the following year. The report must be signed by both the owner/operator and an AEM certified planner.

E. Annual Manure and Other Required Analyses

All CAFOs must analyze each individual land-applied waste source (manure, litter, food processing waste, digestate, and process wastewater) at least once annually for total nitrogen, ammonium, total phosphorus, total potassium, chloride (if food processing waste is included in the waste), and percent solids in accordance with NRCS NY590 unless a more frequent sampling is deemed appropriate by the AEM certified planner. In addition, soil tests must be taken at least every 3 years, not to extend beyond the spring of the fourth crop year, in accordance with NRCS NY590. These records must be maintained on-site as part of the CNMP.

F. Annual Nutrient Management Plan

CAFOs shall annually submit the Annual Nutrient Management Plan in either electronic (PDF only) format, via paper copy, or using the Departments eForm (once available) to the Department by March 31st of each year. The ANMP must contain all information specified in Appendix C and must be done in accordance with the NRCS Standards listed in Part III.A.4 of this general permit. Any changes to ANMP must be done with prior approval from the AEM certified planner; in accordance with the listed NRCS Standards; and shall be reported on in the Annual

Commented [A4]: As discussed above, all changes that affect the NMP must be reviewed, approved and publicized before being implemented, and substantial changes must be reviewed, approved, publicized, and subject to public comment/hearing. 40 C.F.R. 122.42(e)(6)
Substantial changes are not limited to these items, and must include all of the types of changes listed under 40 C.F.R. 122.42(e)(6)(iii)
See also 40 C.F.R. 122.62-63
Any changes to the CNMP that affect the minimum requirements of the NMP under 40 C.F.R. 122.42(e)(1) must also be made to the ANMP.
This comment applies to this whole section.

Compliance Report. The following changes are considered significant and require submission of a revised ANMP immediately:

1. Addition of new land areas not previously included in the ANMP and the CNMP, unless:
    a) that land was included in a nutrient management plan, incorporated into the terms of an existing permit and the new owner applies manure, litter, or process wastewater to the newly added land in accordance with the existing field-specific permit terms; or
    b) applying nutrients in accordance with the application rates assigned to the new land by the AEM certified planner, based on the NRCS NY 590 Standard;

2. Change to field specific maximum annual application rates that do not comply with NRCS standards;

3. Implementation of any other required management practices that do not meet NRCS standards.

Upon receipt of the amended ANMP: the availability of the ANMP will be posted to the Environmental Notice Bulletin; the public will be afforded 30 days to review, comment, and/or to request a hearing; and the Department will review the amended ANMP and will notify the applicant if the amended ANMP has been approved.

G. Additional Inspection and Recordkeeping for All CAFOs

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

1. The owner/operator shall maintain in their on-site records a copy of the current CAFO SPDES General Permit, a copy of the completed NOI, a copy of the ANMP and CNMP, and a copy of CNMP Certification.
2. The owner/operator shall install and maintain a standard rain gauge in the proximity of the production area. All rain events in excess of 0.3 inch shall be measured, recorded and kept as part of the CNMP recordkeeping;
3. Weather conditions at the time of application, the day prior to and the day following application. This must include *actual* precipitation and *forecasted* conditions;

4. Perform and record daily inspection of water lines, including drinking water or cooling water lines;
5. Perform and record weekly inspections of the depth marker reading for manure and process wastewater in any open liquid storage structures to ensure adequate volume exists to maintain the capacity necessary to contain the 25-year, 24-hour rainfall event plus the minimum freeboard necessary per NRCS Standards and this General Permit;
6. Perform and record weekly inspections of all storm water diversion devices, runoff diversion structures, manure storage structures, and devices channeling contaminated storm water to the manure storage and containment structure;
7. Correct and record any deficiencies found as a result of daily and weekly inspections immediately. If deficiencies are not corrected within 30 days, the owner/operator must submit an explanation to the Department describing the factors preventing immediate correction;
8. Records of method used to dispose of animal mortalities, including annual capacity of method and total annual number of animal mortalities;
9. Records of all land application of manure, litter, food processing waste, digestate, and process wastewater applications;
    a) These records must include an up-to-date summary of the total gallons and/or tons applied per acre per field during the crop year cycle;
10. Records of all non-farm generated waste, including food processing waste and digestate from other persons. These records must include;
    a) Name and address of the waste generator; and
    b) Date, amount of waste, and whether waste was introduced into manure storage or directly land applied;
11. Perform and record the date(s) of manure application equipment inspection and calibration (completed annually at a minimum); and
12. Records of the scheduled check of all valves/shut offs for Waste Transfer Systems shall be maintained in accordance with Part III.B.4 of this general permit.

~~12.~~13. Records of transfer to other persons

Commented [A5]: This requirement should also be included. See 40 C.F.R. 122.42(e)(3).

H. Recordkeeping requirements for CAFOs using an Anaerobic Digester

1. The CAFO must keep written records of all materials (e.g. manure, food processing waste, etc.) entering the digester including the type of material, source of the material and the amount accepted.

2. The use of the digestate (e.g. bedding, storage, land application, etc.) must be recorded.
3. For land application of digestate, the CAFO must keep written records of the location of each field used, the acreage of the field, the amount of digestate applied, and the dates of application.

I. Retention of Records

The owner/operator shall retain copies of all records and reports required by this general permit for a period of at least 5 years from the date reported. This period may be extended by request of the Department at any time. These records must be made available to the Department, or his or her designee, for review upon request.

J. Electronic Recordkeeping

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

V. STANDARD PERMIT CONDITIONS

A. Duty to Comply

The owner/operator must comply with all conditions of this general permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and is grounds for: an enforcement action; loss of eligibility under this general permit; and/or denial of coverage renewal. An owner/operator's filing of a request for a permit modification, transfer, or termination, or a notification of planned changes or anticipated non-compliance, does not limit, diminish or stay compliance with any terms of this general permit.

B. Enforcement

Failure of the owner/operator, AEM certified planner, contracted professional engineer, agents and/or assigns to strictly adhere to any of the general permit requirements contained herein shall constitute a violation of this permit. There are substantial criminal, civil, and administrative penalties associated with violating the provisions of this general permit. Fines of up to $37,500 per day for each violation and imprisonment for up to fifteen (15) years may be assessed depending upon the nature and degree of the offense.

Commented [A6]: We note that EPA fines are now up to $52,414 per day for violations occurring after 1/15/17. See 82 FR 3633.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for an owner/operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Provide Information

The owner/operator shall furnish to the Department, within 25 business days as per 6 NYCRR Part 750-2.5(c)(4), any information or data which the Department may request to determine compliance with this general permit. The owner/operator shall also furnish to the Department, upon request, copies of records, reports, etc. required to be kept by this general permit.

E. Incomplete Information

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

F. Other Information

When the owner/operator becomes aware of a failure to submit any relevant facts or submittal of incorrect information in the Notice of Intent or in any other report to the Department, the owner/operator shall promptly submit to the Department the additional or amended facts or information. Failure of the owner/operator to correct or supplement any relevant facts within 5 business days of becoming aware of the deficiency shall constitute a violation of this permit.

G. Signatories and Certifications

1. All reports or information submitted to the Department shall be signed and certified as specified in this section. In addition, all reports or information shall be signed by the CAFO owner/operator where the authority to sign documents has been assigned or delegated to the operator.
    a) For CAFOs owned by a corporation: by a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation.
    b) For facilities owned by a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
    c) For facilities owned by a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by this general permit and any other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if the authorization is made in writing by a person described above, and the authorization specifies either an individual or a position having responsibility for the overall operation.

3. Any person signing a document under this section shall make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Property Rights

The issuance of this general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining the assent of any other jurisdiction as required by law for the discharge authorized.

I. Severability

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

J. Department Orders or Civil Decrees/Judgment

The issuance of this general permit by the Department and the coverage under this general permitby the owner/operator does not supersede, revoke or rescind any existing order on consent or civil Decree/Judgment, or modification to any such documents or to any order issued by the Commissioner or any of the terms, conditions or requirements contained in such order or modification thereof, unless expressly noted in said order.

K. Requiring an Individual SPDES Permit

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

L. Proper Operation and Maintenance of all Facilities and Systems

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

1. Failure to properly operate and maintain a BMP in accordance with the requirements of the applicable NRCS standard and CNMP is a violation of this general permit and must be corrected immediately.
    a) If an existing BMP is causing or contributing to any contravention of any State water quality standard, immediate abatement action must be taken by the owner/operator under the direction of an AEM certified planner and the Department notified in accordance with Part IV.B. of this general permit. If a modification of the BMP is deemed necessary in order to protect against future impacts, the modification must be done in accordance with Part III.A. of this general permit.

M. Inspection and Entry

The owner/operator shall allow the Commissioner of the Department, the USEPA Regional Administrator, or his or her designee, or any duly authorized agent thereof, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the owner/operator's premises where a regulated CAFO or activity is located or conducted, or where records must be kept under the conditions of this general permit;
2. Have access to and copy, during normal business hours, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit, and

4. Sample or monitor at reasonable times of day, for the purpose of assuring general permit compliance or as otherwise authorized by the Environmental Conservation Law, any substances or parameters at any location.

N. Permit Actions

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

O. Penalties for Falsification of Forms and Reports

In accordance with 6 NYCRR 750-2.4 and 750-2.5, any person who knowingly makes any false material statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished in accordance with ECL §71-1933 and or Articles 175 and 210 of the New York State Penal Law**.**

P. Other Permits

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

Q. Compliance with Water Quality Standards

If operation of the CAFO pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, in violation of NYS ECL §17-0501, or if the Department determines, on the basis of notice provided by the owner/operator and any related investigation, inspection or sampling, that a modification of the ANMP and the CNMP is necessary to prevent impairment of the best use of the waters or to assure maintenance of water quality standards or compliance with other provisions of NYS ECL Article 17, the Department may require the owner/operator to modify the ANMP and the CNMP for the CAFO in accordance with Part III. of this general permit. The Department may also require abatement actions to be taken by the owner/operator and may also prohibit the noticed act until an individual SPDES permit has been issued. The Department may also undertake any other compliance action related to water quality protection or as otherwise authorized by the NYS ECL.

R. Existing Permits

Unless otherwise notified by the Department, coverage under this general permit does not suspend, revoke, or modify the provisions of any other permit issued by the Department.

S. Availability of Reports

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

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

T. Duty to Mitigate

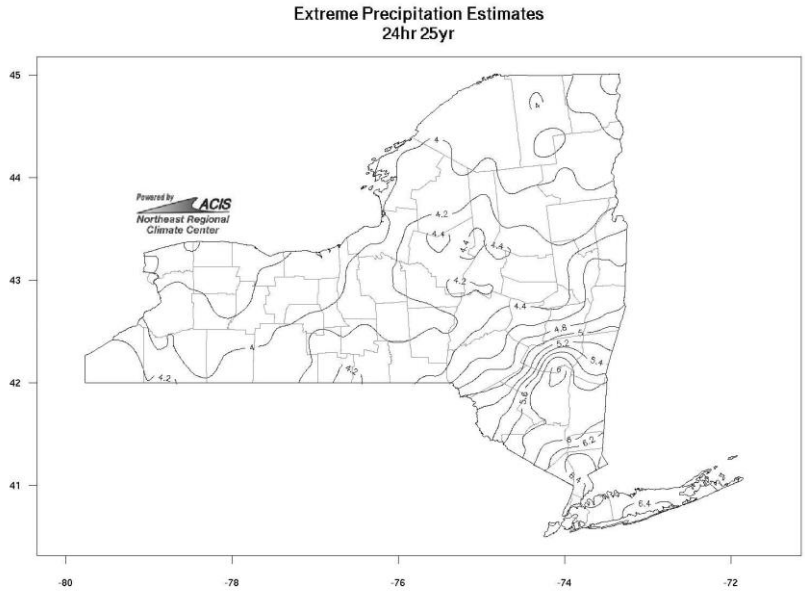
The owner or operator and its contractors and subcontractors shall take reasonable steps to minimize or prevent any violation of this general permit which has the reasonable likelihood of adversely affecting human health or the environment.

U. Reopener Clause

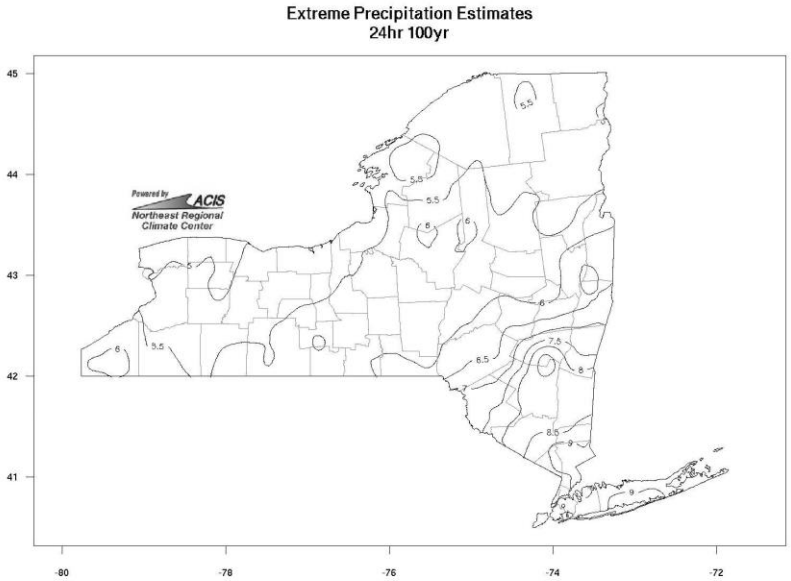
If there is evidence indicating potential or realized impacts on water quality due to any discharge associated with a CAFO covered by this general permit, the owner or operator of such discharge may be required to obtain an individual permit or alternative general permit in accordance with Part V.K.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

Appendix A – DEFINITIONS

A. ***25-Year, 24-Hour Rainfall Event*** means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by precip.net website at the time this permit was issued. See map below:



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



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

D. ***Agricultural Environmental Management Program (AEM)*** means an environmental planning process that includes site-specific, risk-based assessments, technical planning and implementation of BMPs as set forth in New York Agriculture and Markets Law Article 11-A.

E. ***Agricultural Environmental Management (AEM) Certified Planner*** means an individual certified by the American Society of Agronomy as a Certified Crop Advisor (CCA), that has completed the five module NRCS training process, attended the four day CNMP development training course, successfully completed a three plan performance-based CNMP review and been deemed qualified by the Commissioner of the New York State Department of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee and the NRCS State Conservationist, to develop and review CNMPs for CAFOs in New York State. The AEM certified planner must be listed in the New York State AEM certified planner Directory. This directory is designed to assist farm businesses with the selection of planners. The directory provides for a county-by-county listing showing where the planner is willing to provide

services and their associated capacities related to the development of CNMPs. In the back of the directory a complete listing of all certified individuals has been alphabetically organized. Consult the following web site: www.nys-soilandwater.org/aem/cnmp.html for the AEM certified planner directory. In addition, to maintain certification, the AEM certified planner must remain a CCA by meeting continuing education requirements and successfully complete regular quality assurance reviews and recertification granted by the Commissioner of the New York State Department of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee and the NRCS State Conservationist.

F. ***Agricultural Stormwater Discharge*** means a precipitation-related discharge of manure, litter or process wastewater where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, with site specific conservation practices to control runoff, appropriate testing of manure, litter or process wastewater and soil, and adequate documentation and recordkeeping.

G. ***Agronomic Rates*** mean the land application of manure, litter, food processing waste, digestate, and process wastewater at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth.

Commented [A7]: The federal regulations require land application to be limited to ensure "appropriate agricultural utilization of the nutrients" in 40 C.F.R. 122.23(e) (related to the ag stormwater discharge exemption) and 40 C.F.R 122.42(e)(vii) (in the NMP requirements). Does this standard incorporate those federal requirements?

H. ***Anaerobic Digesters*** means the unit process that utilizes biochemical decomposition of organic matter into methane and carbon dioxide by microorganisms in the absence of air.

I. ***Animal Feeding Operation (AFO)*** means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the lot or facility does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they physically adjoin each other, or if they use a common area or system for the disposal of wastes.

J. ***Annual Nutrient Management Plan (ANMP)*** is the document containing the critical information of the Comprehensive Nutrient Management Plan (CNMP). The ANMP must be submitted annually and contain the information required in Appendix C of this general permit.

Commented [A8]: We suggest this read "applicable effluent limits".

K. ***Best Available Technology Economically Achievable (BAT)*** means the Best Available Technology which is economically achievable as established under 301(b) and 402 of the Clean Water Act. The criteria and standards for imposing technology-based treatment requirements are listed in 40 CFR 125.3.

L. ***Best Management Practices (BMPs)*** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, overflows or leaks, sludge or waste disposal, or drainage from raw material storage.

M. ***Common Ownership / Common Facility*** means that two or more Animal Feeding Operations are considered one operation if, among other things, they (1) adjoin each other, including facilities that are separated by a right-of-way or public road, (2) if they use a common manure and wastewater storage and handling system, (3) if they use a common land application area, or (4) if they use a shared feed storage area that is under the control of a CAFO. Operations sharing application equipment that do not result in mixing of nutrients are not, by virtue of such sharing, a common facility, or under common ownership.

N. ***Comprehensive Nutrient Management Plan (CNMP)*** means a plan, done in accordance with all applicable Natural Resources Conservation Service - Conservation Practice Standards that includes structural practices, management activities, and land management practices for an AFO associated with crop or livestock production that collectively ensures that the purpose of crop or livestock production and preservation of natural resources are compatible. Implementation of a CNMP is implementation of Best Available Technology Economically Achievable (BAT). The system of practices detailed in the facility's CNMP must address, but is not limited to the transfer, handling, storage and treatment of manure, litter, process wastewater generated from the production areas, food processing waste, and digestate as well as, precipitation on open structures, storage capacities based on the site specific nutrient management plan, details of storage designs and certifications of practices based on NRCS standards and operation and maintenance requirements. In addition, the site-specific nutrient management plan for application of manure, litter, food processing waste, digestate, and process wastewater shall be compliant with NRCS NY590 to include compliant application methods, rates and timing based on manure and soil analyses, field specific risk assessments for nutrient and

sediment transport potential, sheet, rill, and gully erosion control and application setbacks.

O. ***Concentrated Animal Feeding Operation (CAFO)*** means an Animal Feeding Operation (AFO) that meets the criteria of either a Large or Medium CAFO or is designated as a Small CAFO by the Department. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals of an operation. CAFOs are defined as follows:

Large Concentrated Animal Feeding Operation (Large CAFO) means an Animal Feeding Operation (AFO) that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

a. 700 mature dairy cows, whether milked or dry;
b. 1,000 veal calves;
c. 1,000 cattle, other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
d. 2,500 swine, each weighing 55 pounds or more;
e. 10,000 swine, each weighing less than 55 pounds;
f. 500 horses;
g. 10,000 sheep or lambs;
h. 55,000 turkeys;
i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system
j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
l. 30,000 ducks (if the AFO uses other than a liquid manure handling system); or
m. 5,000 ducks (if the AFO uses a liquid manure handling system).

Medium Concentrated Animal Feeding Operation (Medium CAFO) means an Animal Feeding Operation (AFO) that stables or confines as many as or more than the numbers of animals in any of the following categories:

a. 200 to 699 mature dairy cows, whether milked or dry, except that an AFO that stables or confines 200-299 mature dairy cows, whether milked or dry, that does not cause a discharge, would not be considered a Medium CAFO;
b. 300 to 999 veal calves;

c. 300 to 999 cattle, other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
d. 750 to 2,499 swine, each weighing 55 pounds or more;
e. 3,000 to 9,999 swine each weighing less than 55 pounds;
f. 150 to 499 horses;
g. 3,000 to 9,999 sheep or lambs;
h. 16,500 to 54,999 turkeys;
i. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handing system;
j. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
k. 25,000 to 81,999 laying hens, if the AFO uses other than liquid manure handling systems;
l. 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or
m. 1,500 to 4,999 ducks, (if the AFO uses a liquid manure handling system).

Small Concentrated Animal Feeding Operation (Small CAFO) means an Animal Feeding Operation (AFO) that is designated by the Department as a CAFO or requests CAFO SPDES permit coverage and is not a Medium or Large CAFO. The Department, in determining whether to designate Small CAFOs, would consider the following factors:

1. the size of the AFO and the amount of wastes reaching waters of the State;
2. the location of the AFO relative to waters of the State;
3. the means of conveyance of animal wastes and process waste waters into waters of the State;
4. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure and process waste waters into waters of the State; and
5. other relevant factors.

Small CAFOs must meet all of the Medium CAFO regulatory requirements of this General Permit.

P. ***Date of Coverage*** means the date the owner/operator is authorized for coverage under this General Permit.

Q. ***Department*** means the New York State Department of Environmental Conservation.

R. ***Depth Marker*** means a permanent marker or recorder installed at the maximum operating level to indicate the storage capacity of the structure. The maximum operating level for open waste storage structures, earthen and fabricated, shall be the level that provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one (1) foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The design storage volume includes the volume needed for manure storage according to the CNMP in accordance with the NRCS NY313 Standard Design criteria.

S. ***Digestate*** means the solid and liquid material remaining after anaerobic digestion.

T. ***Discharge*** means any release of any pollutant, including but not limited to manure, litter, process wastewater, food processing waste, digestate, or releases from feed storage areas to waters of the State. Agricultural stormwater discharges as defined herein are exempt and do not classify a facility as discharging.

U. ***Disposal System*** means a system for disposing of sewage, stormwater, industrial waste or other wastes, including sewer systems and treatment works.

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

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

X. ***Export*** means the transfer of manure, litter, food processing waste, digestate, or process wastewater to other persons who, except for the benefits associated with the sale or transfer of the manure, litter, digestate, or process wastewater itself, are not affiliated with the owner/operator for profit, consideration, or any other beneficial interest derived from agricultural land management. To qualify as an export, the receiving person(s) must also be in direct control of:
   a. the application acreage; and
   b. the application rate; and
   c. the application times; and
   d. the transfer rate and time.

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

Z. ***Food Processing Waste*** means waste resulting solely from the processing of fruits, vegetables, grains, dairy products, and related food products. It does not include waste from the processing of animal carcasses or parts. Food processing waste includes but is not limited to:

a. vegetative residues that are recognizable as part of a plant, fruit or vegetable. Grape or apple pomace are considered recognizable.
b. any solid, semisolid or liquid food sludge or residue that is nonrecognizable but identifiable by analysis or can be certified as solely a byproduct of plant, fruit, vegetable or dairy processing.

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

BB. ***Groundwater(s)*** means those waters in the saturated zone. The saturated zone is a subsurface zone in which all the interstices are filled with water under pressure greater than that of the atmosphere. Although the zone may contain gas-filled interstices or interstices filled with fluids other than water, it is still considered saturated per 6 NYCRR 700.1(22).

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

DD. ***Land Application Area*** means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which waste from the production area is or may be applied. This includes land on which manure, litter, food processing waste, digestate, or process wastewater is applied and the CAFO owner or operator controls the application acreage, application rate or application times.

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

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

GG. ***New CAFO or New Facility*** means those operations that meet the definition of a Medium or Large CAFO and are constructed and operated after the effective date of this General Permit. This does not include existing facilities newly acquired by an existing CAFO.

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

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

JJ. ***Overflow*** means any untreated release of manure, litter process wastewater, food processing waste, digestate, or releases from feed storage areas, from the production area (unless the release enters a properly designed and functioning vegetated treatment area), that does not reach *surface waters of the State*.

KK. ***Pasture Area*** means a unit of land on which exists a suitable amount, type, and distribution of vegetation; is managed to complement the nutritional requirements of the resident livestock; and maintains adequate vegetative cover during the growing season to promote water infiltration and filtration of runoff.

LL. ***Point Source*** means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

MM. ***Process Wastewater*** means any water directly or indirectly used in the operation of an Animal Feeding Operation including:

a. Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing of calf hutches, pens, barns, manure storage areas or manure pits, or other AFO facilities.

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

c. Leachate from silage/feed storage areas or mortality compost areas.

d. Wastewater generated in the production of intermediate or final products such as eggs and milk.

e. Precipitation which comes into contact with any area where organic materials are stored, fed or wasted such as silos, bunk silos, organic bedding storage, grain storage, commodity buildings, feed bunks, and manure or wastewater storage or treatment facilities.

Process-generated wastewater does not include: non-contact cooling water; precipitation related runoff from pastures; driveways; roof areas; or laneways where animals do not congregate; cropfields where manure is applied in accordance with NRCS NY590, or effluent from vegetated treatment areas that are designed and maintained in accordance with NRCS NY635.

NN. ***Production Area*** means that part of an AFO including the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas.

a. The animal confinement area includes, but is not limited to, non-vegetated open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, calf-hutch areas, medication pens, walkers, animal walkways, and stables.

b. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, temporary or permanent stacking areas, under-house or pit storages, liquid impoundments, static piles, areas for storage of manure treatment products and composting piles.

c. The raw material storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials.

d. The waste containment area includes, but is not limited to, settling basins, and areas within berms and diversions which separate uncontaminated stormwater.

e. Any egg-washing or egg-processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

OO. ***Proper Operation and Maintenance*** means proper operation and maintenance of BMPs that includes, but is not limited to, activities such as periodic solids removal to maintain storage capacity and protect the required

freeboard requirements, maintenance of berms and sidewalls including mowing, prompt repair of any deficiencies, mowing and removal of vegetation from vegetated treatment areas, and appropriate dewatering activities. Proper operation and maintenance must be done in accordance with the requirements of Part VI. of this General Permit and all applicable NRCS standards. CAFOs must actively implement BMPs to maintain the appropriate production area capacity, including the capacity to contain the runoff and precipitation from the 25-year, 24-hour storm event in manure storage structures and reception pits.

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

QQ. ***Retention Facility or Retention Structures*** means any structure(s) used for the retention/storage of wastes on the premises until their ultimate use. This includes the retention of manure, litter, process wastewater, food processing waste, digestate, and runoff from the production area. These structures must be designed in accordance with all applicable NRCS standards (example: NRCS NY313 Waste Storage Facilities) or for existing waste storage structures built prior to the facility obtaining CAFO permit coverage, certified in accordance with Part III.A.4 of this General Permit.

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

SS. ***Setback*** means a specified distance from surface waters or potential conduits to surface waters. Examples of conduits to surface waters includes, but are not limited to, open tile intake structures, sinkholes, and agricultural wellheads.

TT. ***Surface Waters of the State*** shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface waters), which are wholly or partially within or bordering the state or within its jurisdiction. Waters of the state are further defined in 6 NYCRR Parts 800 to 941. Storm sewers or conveyances, e.g. ditches, are not surface waters of the State unless they are mapped Waters of the State (further defined in 6 NYCRR Parts 800 to 941) or continuously flowing. Nonetheless, an overflow to the

conveyance shall be regulated as a discharge at the point where the conveyance discharges to waters of the State.

UU. ***Transfer Structures*** means any structure(s), such as pipelines, ditches, swales, sumps, etc. used to transfer manure, litter, food processing waste, digestate, and process wastewater or runoff from the production area to retention facilities or structures or other BMPs (example: NRCS NY634 Manure Transfer Structures).

VV. ***Vegetated Buffer*** means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

WW. ***Waste Storage Structure*** means any permanent retention facility or retention structure with a storage capacity of 7 days or longer or a storage volume equal to or greater than 10,000 gallons.

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

Appendix B – PERMIT REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AT CAFO FACILITIES

Coverage Under The SPDES General Permit for Stormwater Discharges from Construction Activity Required for Certain Construction Activities – There shall be no water quality impairment due to construction related activity.

An owner/operator of a facility with coverage under this CAFO General Permit is also required to obtain coverage under SPDES General Permit for Stormwater Discharges from Construction Activity (SPDES Construction Permit) before commencing certain construction activities performed at the CAFO facility. Discharges from these construction activities will be authorized under the SPDES Construction Permit, unless the facility is otherwise notified by the Department.

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

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

A. Construction of Operational and Vegetative Agricultural BMPs

Commented [A9]: Under 40 C.F.R. 122.26(b)(15), all construction activities (clearing, grading, and excavation) that result in land disturbance of equal to or greater than one acre and less than five acres require a construction stormwater permit. What is the source of this exemption?

An owner/operator constructing one of the following operational and vegetative agricultural BMPs as identified in the New York State Department of Agriculture and Markets document, "Agricultural Management Practices Catalogue for Nonpoint Source Pollution in New York State" is **not required** to comply with any of the provisions of the SPDES Construction Permit:

Conservation Tillage
  Minimum Till
  No Till
Contour Farming
Cover and Green Manure Crop
Critical Area Protection
Permanent Vegetative Cover
Crop Rotation
Filter Strips
Integrated Pest Management
  Biological Controls
Cultural Practices
Resistant Crop Varieties

Scouting
Trap Crops
Irrigation Water Management
Scheduling
Nutrient Management
Fertilizer Management
Land application of Manure
Manure Nutrient Analysis
Soil Testing
Pathogen Management
Pesticide Management
Computerized Precision Application
Evaluation of Site Specific Leaching and Surface Loss Potential
Pesticide Application Education and Training
Proper Equipment Calibration
Proper Timing of Pesticide Application
Read and Follow the Label Directions
Riparian Forest Buffer
Strip-cropping

B. Construction of Structural Agricultural BMPs – With soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres:

An owner or operator constructing one of the following structural agricultural BMPs as identified in the "Agricultural Management Practices Catalogue for Nonpoint Source Pollution in New York State" that involve soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres, is required to implement erosion and sediment control practices, designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control, during construction. However, the owner or operator is not required to obtain coverage under the SPDES Construction Permit for these construction activities:

Access Road Improvement
Alternative Water Supply (Ponds, if designated)
Barnyard Runoff Management System
Constructed Wetlands
Critical Area Protection
Streambank and Shoreline Protection
Diversions
Fencing
Grassed Waterways

Irrigation Water Management
Trickle Irrigation
Nutrient Management
Anaerobic Digestion
Composting
Manure Storage System
Nutrient/Sediment Control System
Pasture Management: Short Duration Grazing System
Pesticide Handling Facility
Petroleum Product Storage, Spill Prevention and Containment
Silo Leachate Control (to include WWT Systems and created wetlands)
Terraces
Wetland mitigation projects

C. Construction of Structural Agricultural BMPs – With soil disturbances of five (5) or more acres of land:

An owner/operator constructing one of the structural agricultural BMPs as identified in B above that disturbs five (5) or more acres of land is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners/operators of these facilities are also required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control. For sites constructing a structural agricultural BMP identified in B that includes the construction or reconstruction of impervious area, the SWPPP must also address post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department.

D. Other Construction Activities – With soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than five (5) acres:

An owner or operator of construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that involve soil disturbances of one (1) or more acres of land (5000 square feet in the New York City Watershed East of the Hudson), but less than 5 acres, is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners/operators of these facilities are also required to develop and implement a

SWPPP that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control.

E. Other Construction Activities – With soil disturbances of five (5) or more acres of land:

An owner/operator of construction activities associated with the construction of barns, houses, silos (including bunks), stock yards, pens, farm ponds and other farm buildings that involve soil disturbances of five (5) or more acres of land is required to obtain coverage under the SPDES Construction Permit by submitting a SPDES Construction Permit NOI to the Department prior to soil disturbance. The owners/operators of these facilities are also required to develop and implement a SWPPP that includes erosion and sediment control practices designed in conformance with the New York Standards and Specifications for Erosion and Sediment Control. For construction projects that include the construction or reconstruction of impervious area, the SWPPP must also address post-construction stormwater management practices designed in conformance with the New York State Stormwater Management Design Manual, unless otherwise notified by the Department.

When required, the SWPPP shall conform to the most current versions of the New York Standards and Specifications for Erosion and Sediment Control and New York State Stormwater Management Design Manual, and shall be submitted to the Department only upon request. If alternative practices are used, the owner or operator must demonstrate equivalence to the Department's technical standards. When coverage under the SPDES Construction Permit is required, a properly completed SPDES Construction Permit Notice of Intent (NOI) form shall be submitted to the Department (use address at top of NOI) prior to the commencement of soil disturbance activity. SWPPPs must be developed for subsequent site disturbances in accordance with the above requirements. The owner or operator is responsible for ensuring that the provisions of each SWPPP are properly implemented.

For construction activities that are subject to the SPDES Construction Permit, the owner or operator shall file a Notice of Termination (NOT) for the SPDES Construction Permit when the construction activity identified in the SWPPP has been completed and all disturbed areas have achieved final stabilization as defined in the SPDES Construction Permit.

Appendix C – TEMPLATE FOR THE ANNUAL NUTRIENT MANAGEMENT PLAN

Item	Deliverable
SECTION I. TYPE AND NUMBER OF ANIMALS	Report the **MAXIMUM** number of each type of animal planned to be confined at this facility at any one time during the upcoming crop year as planned for in the facility's CNMP in Table format.
Type	
Mature Dairy Cattle (milked or dry)	
Dairy Heifers	
Veal Calves	
Other Cattle	
Swine (55 lbs. or more)	
Swine (under 55 lbs.)	
Horses	
Sheep or Lambs	
Turkeys	
Chickens (broilers)	
Chickens (layers)	
Ducks	
Other (specify)	

SECTION II. FARMSTEAD / PRODUCTION AREA ELEMENTS	**Farmstead Facility Plan Maps** – including all existing and planned locations of each of the following items as applicable (may be multiple maps to cover all facilities at a useable scale):
Barns / Livestock housing (barnyards, open lots, etc.)	
Manure storage facilities (including satellite storages and appurtenances) and the site-specific Operation and Maintenance plan consistent with the procedures outlined in NRCS NY 313	
Temporary manure pile areas	
Manure and/or process wastewater transfer structures	
Feed storage (need not include roofed feed storage)	
Concentrated source elements (other places where process wastewaters are treated, handled or stored)	As an alternative, **Farmstead Facility Plan Narratives** may supplement maps of the items in this section as deemed appropriate by the certified planner (e.g., storage, transfer, treatment, etc. systems within barns). These narratives or a combination of narratives and Farmstead Facility Plan Maps must provide a
Clean water flows, including all clean water diversions, locations of adjacent waterways, waters of the State, intermittent waterways, ditches, etc.	
Process wastewater flows – if exist (need not include internal plumbing, pumping, etc. except as described above)	
Mortality management facilities – if utilized	

	comprehensive description of all items listed.

SECTION III. FIELD ELEMENTS	
Field ID	**Field Maps** - including locations of the following items: As an alternative, **Field Plan Narratives** may supplement maps of the items in this section as deemed appropriate by the certified planner (e.g., acres, practices, etc.). These narratives or a combination of narratives and Field Maps must provide a comprehensive description of all items listed
Farm and Field Boundaries	
Acres (may be included in separate reference list)	
Concentrated flows	
Watercourses	
Practices required for compliance with the General Permit	
Setbacks	
Buffers	
Erosion control measures, the structural field practices only	

SECTION IV. FIELD Nutrient Management	
Field ID	Items in this section must be provided in a **Table format** or **Narratives** as deemed appropriate by the certified planner and must provide a comprehensive description of all items listed
Planned Crops – planned crop year only	
Expected yield(s)	
Manure recommendations – with alternatives if clear, available, compliant with CAFO general permit and circumstances justified by the certified planner.	
Manure source (e.g. heifer pit, dry cow barn, etc.)	
Manure application rate	
Application timing	
Application method	
Chemical fertilizer recommendations (for those land application areas under the control of the CAFO operation that receive manure, litter or process wastewater applications during the crop rotation only)	
Material	
Rate	
Timing	
Method of application	

Risk assessment results	
Analysis of soil (once every 36 months) done in accordance with the protocols outlined in NRCS NY 590 for all fields where land application activities are conducted	
Analysis of manure, done in accordance with the protocols outlined in NRCS NY 590, from each containment structure. Samples collected and analyzed no more than 12 months apart.	
P Index Ratings	
N Index Ratings	

SECTION V. Wet Weather Standard Operating Procedures – New Swine, Poultry, and Veal

Comprehensive Nutrient Management Plan (CNMP) Certification Statement

OWNER/OPERATOR CERTIFICATION To the best of my knowledge, the Comprehensive Nutrient Management Plan (CNMP) that has been developed for this operation is in full conformance with the requirements of the New York State General Permit No. GP-0-16-002 for Concentrated Animal Feeding Operations, under authority of the State Pollutant Discharge Elimination System.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name (please print or type) Signature Date

_____

PLANNER CERTIFICATION
I am an Agricultural Environmental Management (AEM) Planner certified to develop and review Comprehensive Nutrient Management Plans (CNMPs) for Concentrated Animal Feeding Operations (CAFOs) in New York State. The CNMP that has been developed for this operation is in full conformance with the requirements of the New York State General Permit No. GP-0-16-002 for Concentrated Animal Feeding Operations, under authority of the New York State Pollutant Discharge Elimination System. I have reviewed the CNMP and all BMPs necessary to implement the CNMP with the owner and/or operator responsible for the proper operations of this CAFO.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel

properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name (please print or type) Signature Date

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Appendix D – DEC REGIONAL OFFICE CONTACT INFORMATION

REGION	COVERING THE FOLLOWING COUNTIES	SPILLS HOTLINE 24 Hour Reporting	DIVISION OF WATER (DOW) WATER (SPDES) PROGRAM
1	NASSAU AND SUFFOLK	1-800-457-7362	50 CIRCLE ROAD STONY BROOK, NY 11790-3409 TEL. (631) 444-0405
2	BRONX, KINGS, NEW YORK, QUEENS RICHMOND	1-800-457-7362	1 HUNTERS POINT PLAZA, 47-40 21ST ST. LONG ISLAND CITY, NY 11101-5407 TEL. (718) 482-4933
3	DUTCHESS, ORANGE, PUTNAM, ROCKLAND, SULLIVAN, ULSTER AND WESTCHESTER	1-800-457-7362	100 HILLSIDE AVENUE, SUITE 1 W WHITE PLAINS, NY 10603 TEL. (914) 428-2505
4	ALBANY, COLUMBIA, DELAWARE, GREENE, MONTGOMERY, OTSEGO, RENSSELAER, SCHENECTADY AND SCHOHARIE	1-800-457-7362	1130 NORTH WESTCOTT ROAD SCHENECTADY, NY 12306-2014 TEL. (518) 357-2045
5	CLINTON, ESSEX, FRANKLIN, FULTON, HAMILTON, SARATOGA, WARREN AND WASHINGTON	1-800-457-7362	232 GOLF COURSE ROAD, WARRENSBURG, NY 12885TEL. (518) 623-1212
6	HERKIMER, JEFFERSON, LEWIS, ONEIDA AND ST. LAWRENCE	1-800-457-7362	STATE OFFICE BUILDING 207 GENESEE STREET UTICA, NY 13501-2885 TEL. (315) 793-2554
7	BROOME, CAYUGA, CHENANGO, CORTLAND, MADISON, ONONDAGA, OSWEGO, TIOGA AND TOMPKINS	1-800-457-7362	615 ERIE BLVD. WEST SYRACUSE, NY 13204-2400 TEL. (315) 426-7500
8	CHEMUNG, GENESEE, LIVINGSTON, MONROE, ONTARIO, ORLEANS, SCHUYLER, SENECA, STEUBEN, WAYNE AND YATES	1-800-457-7362	6274 EAST AVON-LIMA RD. AVON, NY 14414-9519 TEL. (585) 226-5450
9	ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE, NIAGARA AND WYOMING	1-800-457-7362	270 MICHIGAN AVE. BUFFALO, NY 14203-2999 TEL. (716) 851-7070