



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CONSERVATION AND RESTORATION

**APPROVAL FOR COVERAGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

NPDES GENERAL PERMIT FOR CAFO OPERATIONS (PAG-12)

In compliance with the provisions of the Pennsylvania Clean Streams Law, 35 P.S. Section 691.1 et seq., and the federal Clean Water Act, 33 U.S.C. Section 1251 et seq. ("the Act")

(hereinafter "permittee") is hereby authorized to operate a ***[Deleted - Number of AEU's AEU Type of Animals]*** Concentrated Animal Feeding Operation (CAFO) located in _____, _____ County in Watershed _____, in accordance with all limitations, monitoring, reporting, record-keeping requirements, and other special conditions set forth in Parts A, B, and C of PAG-12 and this Approval for Coverage. ***The CAFO contains _____ AEU's and shall only make changes to the AEU's consistent with this permit and the Nutrient Management Plan (NMP) for the CAFO***

The authority granted by this Approval for Coverage is based in part on the information provided with the notice of intent (NOI) submitted to the Department requesting coverage under PAG-12 and is subject to the following:

1. If there is a conflict between the NOI, its supporting documents and/or amendments, and the terms and conditions of this Approval for Coverage and PAG-12, the terms and conditions of this Approval for Coverage and PAG-12 shall apply. ***All supporting documents and/or amendments must be submitted with the NOI for review.***
2. Failure to comply with the terms, conditions, or effluent limitations of PAG-12 and this Approval for Coverage is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of an NOI seeking continued coverage. ***Any Permit non-compliance constitutes a violation of the Pennsylvania Clean Streams Law and the federal Clean Water Act.***
3. A complete NOI seeking continued coverage under PAG-12 ***[Deleted – or notification of intent to cease operation as a CAFO by the expiration date must]*** shall be submitted to the Department on or before the renewal application due date (180 days prior to expiration of the permit) specified below on this page (unless permission has been granted by the Department for submission at a later date), using the appropriate NPDES permit form.
4. In the event that a timely and complete NOI seeking continued coverage under PAG-12 has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit before the expiration date below, the terms and conditions of this permit will be automatically continued, and this Approval for Coverage will remain fully effective and enforceable pending the grant or denial of the pending NOI as long as the permittee is and remains in compliance with the terms and conditions of this Approval for Coverage and PAG-12.
5. Neither this Approval for Coverage nor PAG-12 constitutes an authorization to construct or make modifications to wastewater storage facilities necessary to meet the terms and conditions of this Approval for Coverage and PAG 12 ***or to construct any building or structure on permittee's facility.***

Coverage Approval Date: Coverage Approval Date

Coverage Expiration Date: Coverage Expiration Date

Renewal NOI due Date: Permit renewal Application Due Date

Draft Changes (4/26/12) 3910-PM-WM0034 Note: For PAG-12 review purposes, new text is shown in bold italic font. Deleted text is shown in brackets and in bold italic font.

**Approval of the General Permit
Coverage authorized by:**

Watershed Management Program Manager
Watershed Management Regional Office
Department of Environmental Protection

DRAFT



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CONSERVATION AND RESTORATION

**AUTHORIZATION TO OPERATE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

NPDES GENERAL PERMIT FOR CAFO OPERATIONS (PAG-12)

GENERAL PROVISIONS

This General Permit authorizes the permittee to operate a CAFO subject to: the limitations, monitoring, reporting, record-keeping requirements, and other permit conditions as set forth in this General Permit.

New operations that will be CAFOs may not populate the operation with animals until the Department authorizes coverage under this General Permit based upon the following:

- (1) The applicant has submitted a complete Notice of Intent (NOI) in accordance with the requirements of this permit, using an NOI form provided by the Department (or photocopy thereof). ***The Department may require additional information pertinent to the operation as part of the application process.***
- (2) The applicant has obtained Approval for Coverage under this General Permit.

The Department may deny coverage under this General Permit in accordance with 25 Pa. Code § 92a.54(e) of its regulations. Also, the Department may require submittal of an application for an Individual NPDES permit in accordance with § 92a.54(f) of its regulations.

ADDITIONAL PROVISIONS

The authority granted by this General Permit is further subject to the following conditions:

- 1.a. Upon written notification by the Department, any person authorized to operate under this General Permit may be required to apply for and obtain an Individual NPDES permit. The written notification shall include: (1) the reasons for this decision, (2) an application form, (3) a deadline to file the application, and (4) a statement that on the effective date of the Individual NPDES permit, as it applies to the individual permittee, coverage under this General Permit shall automatically terminate. Any interested person may petition the Department to take action under this paragraph.
- 1.b. If the person fails to submit, in a timely manner, an Individual NPDES permit application required by the Department under Paragraph 1.a., the coverage under this General Permit ***[Deleted – is automatically terminated] shall continue unless coverage is terminated*** by the Department at the end of the day specified by the Department's notice for application submittal. The Department may grant additional time to submit the application for an individual permit upon written request from the applicant.
2. A permittee may request the Department to terminate its Approval for Coverage and issue an individual permit. If an Individual NPDES permit is denied to such a permittee, the permittee may continue operating if all eligibility requirements under the General Permit continue to be met.
3. When an Individual NPDES permit is issued to a person authorized to operate under this General Permit, the applicability of this General Permit to the Individual NPDES permittee is automatically terminated on the effective date of the Individual Permit.
4. This General Permit may be renewed, modified, suspended, terminated, or revoked and reissued by the Department.
- 5.a. This General Permit expires at midnight five (5) years after the issuance date specified below.

- 5.b An NOI for renewal of coverage under this permit must be submitted to the Department at least 180 days prior to the Coverage Expiration Date on the Approval for Coverage, unless written permission has been granted by the Department for submission at a later date. A request for renewal of coverage is to be made using an NOI form provided by the Department, or photocopy thereof.
- 5.c Permittees who submit a timely renewal application in accordance with paragraph 5.b, may continue to operate pursuant to the terms and conditions of this permit until the General Permit is renewed, modified or revoked and reissued.
- 5.b The Department will publish a notice in the Pennsylvania Bulletin of the draft renewed, modified, or reissued general permit before it expires. After a comment period specified in the notice of draft permit, a notice of final renewal, modification, or reissuance of the General Permit will be published in the Pennsylvania Bulletin.
6. ***Exceeding the AEUs allowed in the Nutrient Management Plan (NMP) incorporated into this permit Part C I. Special Requirements A. Nutrient Management Plans (NMPs) represents non-compliance with permit conditions. The permittee must notify the Department in writing of any proposed change in AEUs greater than ten percent (10%) of the number of AEUs listed in the NMP and shall describe the proposed changes. This notification shall be submitted at least 45 days prior to implementing the proposed change unless a shorter period of time is approved by the Department in writing. A proposed increase in the AEUs managed on the facility may require an amendment to the permit. Any permit amendment required for a proposed increase in AEUs must be approved before the animal population is increased.***
7. ***It is unlawful for this permittee to discharge pollutants to waters of this Commonwealth except as allowed by regulations or this permit.***
8. No condition of this General Permit shall release the permittee from any responsibility or requirements under other federal or Pennsylvania environmental statutes or regulations.

PART A

I. EFFLUENT LIMITATIONS, SELF-MONITORING AND RECORD KEEPING REQUIREMENTS

A. Definitions

1. **25-year, 24-hour Storm** - the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," and subsequent replacements, or equivalent regional or state rainfall probability information developed there from.
2. **100-Year, 24-Hour Storm** - the maximum 24-hour precipitation event with a probable recurrence interval of once in 100 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," and subsequent replacements, or equivalent regional or state rainfall probability information developed there from.
3. **Agricultural process wastewater** - wastewater from agricultural operations including from spillage or overflow from livestock or poultry watering systems; washing, cleaning or flushing pens, milk houses, barns, manure pits, ***or other facilities associated with the CAFO operation; silage leachate;*** direct contact swimming, washing or spray cooling of livestock or poultry; egg washing; or dust control. ***Agricultural process wastewater includes any water which comes into contact with any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs and bedding.***
4. **Animal equivalent unit (AEU)** - one thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit.
5. **Animal feeding operation (AFO)**- ***a federal definition for a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal***

growing season over any portion of the lot or facility.

6. ***Animal heavy use area- a barnyard, feedlot, loafing area, exercise lot, or other similar area on an agricultural operation where due to the concentration of animals it is not possible to establish and maintain vegetative cover of a density capable of minimizing accelerated erosion and sedimentation by usual planting methods; The term does not include entrances, pathways and walkways between areas where animals are housed or kept in concentration.***
7. ***Agricultural stormwater - a precipitation-related discharge of manure, litter or agricultural process wastewater from land areas under the control of a CAFO is an agricultural stormwater where the manure, litter or agricultural process wastewater has been applied in accordance with site specific nutrient management practices as specified in 40 CFR §122.42(e)(1)(vi)–(ix) that ensure appropriate agricultural utilization of the nutrients in the manure, litter or agricultural process wastewater.***
8. ***Best management practices (BMPs) - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution to surface waters of the Commonwealth. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.***
9. ***Concentrated animal feeding operations (CAFO) – a CAO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR 122.23 (relating to concentrated animal feeding operations). A CAFO may also be a federally defined AFO that has been designated as a CAFO pursuant to 40 CFR § 122.23(c).***
10. ***Concentrated animal operations (CAOs)– an agricultural operation that meets the criteria established by the State Conservation Commission in Chapter 83, Subchapter D (relating to nutrient management).***
11. ***Erosion and sediment control plan (E&S Plan) – a site-specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activities pursuant to 25 PA Code 102.***
12. ***Large concentrated animal feeding operation – federal classification for a large animal operation as defined in 40 CFR § 122.23***
13. ***Manure - animal excrement, including poultry litter, which is produced at an agricultural operation. Manure includes materials such as bedding, washwater, raw materials and other materials which are commingled with that excrement.***
14. ***Manure storage facility - a permanent structure or pond, or a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This shall include concrete, metal or other fabricated tanks and underbuilding structures, as well as earthen and synthetically lined manure storage ponds, or other Manure Storage Facilities as defined in 25 Pa. Code § 83.201.***
15. ***Medium concentrated animal feeding operation – federal classification for a medium animal operation as defined in 40 CFR § 122.23. It is illegal for a medium CAFO to discharge pollutants to waters of this Commonwealth except as allowed by regulations or a permit administered by the Department***
16. ***New source - any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced after promulgation of standards of performance under section 306 of CWA which are applicable to such source, or after proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.***
17. ***Nutrient management plan (NMP) - a written site-specific plan that incorporates management practices to manage the use of plant nutrients for crop production and water quality protection in accordance with***

Chapter 83, Subchapter D (relating to nutrient management).

18. ***Overflow - the discharge of manure or agriculture process wastewater resulting from the filling of agricultural wastewater or manure storage structures beyond the point at which no more manure, agricultural process wastewater, or agricultural storm water can be contained by the structure.***
19. **Production area** – that part of an operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included are egg washing or processing facilities and areas used in the storage, handling, treatment, or disposal of mortalities.
20. ***Setback - a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied. Examples of conduits to include but are not limited to: open tile line intake structures, sinkholes and agricultural well heads.***
21. ***Small concentrated animal feeding operation – federal classification for a small animal operation as defined in 40 CFR § 122.23 It is illegal for a small CAFO to discharge pollutants to waters of this Commonwealth except as allowed by regulations or a permit administered by the Department***
22. ***Vegetative buffer - 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. The minimum acceptable buffer width is 35 feet. Wider buffers widths may be required by regulation.***
23. ***Wet weather event – any climatological event resulting in precipitation, such as rain, snow, hail, or any other event that may or may not runoff the surface of the land.***
24. ***Winter – for the purposes of this permit, winter is defined as December 15 through February 28; or anytime the ground is frozen at least four (4) inches; or anytime that the ground is snow covered.***

B. Effluent Limitations

The requirements under this section constitute narrative effluent limits to protect water quality.

1. The permittee shall comply with the relevant provisions of 25 Pa. Code § 91.36 ***and 25 Pa. Code Chapter 85, Subpart D*** including:
 - a) For manure storage on CAFOs operating under this permit, ***the storage facilities must be designed, constructed, operated and maintained to collect all manure, litter, and agricultural wastewater from the production area unless other facilities have been designed and constructed to handle non-manure contaminated agricultural process wastewater. The storage facilities must be sized to ensure that there is adequate storage space between periods of application so that the permittee does not exceed application rates established in the current approved Nutrient Plan developed under Chapter 83, Subchapter D.*** The manure storage facility must be designed, constructed, operated, and maintained to ensure that the facility is structurally sound, watertight, and located and sized properly to prevent pollution ***[Deleted – of surface and groundwater] to groundwater and the discharge of pollutants to surface water*** for any storm up to and including the design rainfall event. ***Any manure storage facility must be fitted with a depth marker.*** For operations that came into existence after April 13, 2003, and that include swine, poultry, or veal calves, the design rainfall event is the 100 year, 24 hour storm. For all

other operations, the design rainfall event is the 25-year, 24-hour storm.

- b) ***[Deleted – For land application areas on]*** CAFOs operating under this permit ***[Deleted – the permittee]*** shall ***obtain and*** implement ***[Deleted – his]*** an approved NMP under 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management), according to Part C of this General Permit ***including all BMPs identified in the plan, both for land application and for manure, litter, and agricultural process wastewater handling and storage, or otherwise as approved by the State Conservation Commission or conservation district with approval authority under 25 Pa. Code Chapter 83, Subchapter D.***
 - c) ***[Deleted – In addition,]*** The permittee shall implement manure application setbacks of at least 100 feet, or vegetated buffers at least 35 feet in width ***from surface waters and conduits to surface waters, open tile line intake structures, sinkholes, and agricultural wellheads or other conduits to surface water.*** ***[Deleted - including a provision that]*** Manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water from storm events up to and including the 25-year, 24-hour storm.
2. The permittee shall comply with the requirements enumerated in 25 Pa. Code § 92a.29.(e) of the regulations.
 3. The permittee shall ensure that activities and facilities, ***including the production and the land application areas under control of the permittee,*** associated with the CAFO operation do not create a danger of pollution, or cause or contribute to pollution of surface waters. In response to its own finding of water quality problems or based upon documented evidence, the Department may, upon written notice, require the permittee to develop and implement additional BMPs or use other control measures to promptly abate the pollution problem and to ensure that the water quality of the receiving water is protected and maintained.

C. Self-Monitoring, Reporting and Record Keeping

1. Self –inspections ***[Section has been rewritten and reformatted to identify daily, weekly and periodic inspections]***
 - a. ***Daily inspections - inspection of drinking water or cooling water lines shall be conducted and documented each day. The permittee shall create and maintain a daily log of inspections of water lines that documents any leaks and the corrective actions taken by the permittee. Records of daily inspections shall be maintained on site in accordance with Part A.I.C.10 of this permit.***
 - b. Weekly inspections - Inspection of the production area shall be conducted and documented once every week, and after measurable wet weather events. Inspections of the production area shall, at a minimum, include: evaluation of the adequacy, stability, and operation of the manure storage facilities and any devices channeling contaminated stormwater to the manure storage facility; assessment of storm water diversion devices and runoff diversion structures; and determination of the storage level in the manure storage facility. In addition, the inspections must include examination of subsurface drainage and/or leak detection systems for the presence of manure and to assurance that these systems are functioning properly.
 - c. Weekly inspections - The ***weekly*** self-inspection results shall be recorded on the Department's "Concentrated Animal Feeding Operation Self Inspection Report Form". ***[Deleted – 3620-FM-WQ0049]*** The report shall document the results of these inspections and identify any problems or shortcomings and the steps to be taken to correct them. Upon reviewing the reports, the Department may conduct its own follow-up compliance inspections to assure the adequacy of facilities and implemented BMPs and other control measures to protect water quality.
 - d. Weekly inspections - Copies of the reports from weekly self-inspections must be kept on file at the operation for five (5) years and be made available to the Department for review upon request.

- e. ***Periodic inspections - During the weeks that manure, litter, or process wastewater is land applied under the NMP, the CAFO must inspect land application equipment for leaks, and document the results of these inspections and actions taken to abate the leakage. Records of periodic inspections shall be maintained on site in accordance with Part A.I.C.10 of this permit.***
 - f. ***Any CAFO that land applies manure shall document the weather conditions on the day before, the day of, and the day after land application of manure, litter, or process wastewater. Records of weather conditions shall be maintained on site in accordance with Part A.I.C.10 of this permit.***
 - g. ***The permittee shall maintain records of mortality management and practices used by the CAFO to meet the requirements of Part C.I.E., Animal Mortality, and the permittee's approved NMP. Records of mortality management shall be maintained on site in accordance with Part A.I.C.10 of this permit.***
 - h. ***Records required to be maintained in Part A.I.C.1 may be maintained on forms provided by the Department or on other comparable forms.***
2. Representative Sampling – Sampling ***is [Deleted – will be]*** required if there is a ***cloudy, discolored, odiferous or unusual discharge from the perimeter and/or leak detection system of a manure storage facility.*** If samples and other measurements are taken for the purpose of complying with this permit, they shall be representative. ***[deleted – of the entire operation at the location]*** If there is a discharge from the storage production area, the frequency and volume of discharge must be estimated, monitored and recorded, and the record must be kept on site. The samples must be analyzed for CBOD, ammonia-nitrogen, pH, total suspended solids and coliform bacteria. Samples shall consist of grab samples collected from the discharge from the manure storage facility ***[Deleted – or any direct or indirect discharge of manure to surface waters]***. A minimum of one sample shall be collected from each discharge. The results shall be submitted to the Department as an attachment to a Non-Compliance Discharge Report, as discussed in paragraph 6 below.
 3. Recording of Results - When any measurement or sample is taken, the permittee shall record the following information:
 - a) The exact place, date, and time of sampling or measurements;
 - b) The person(s) who performed the sampling or measurements;
 - c) The date(s) the analysis was performed;
 - d) The person(s) who performed the analysis;
 - e) The analytical techniques or methods used; and
 - f) The results of such analysis.
 4. Test Procedures - If and when samples of liquid manure are collected, the analytical test procedures contained in 40 CFR Part 136, or alternate test procedures approved pursuant to that part, or approved in writing by the Department, shall be used.
 5. Anticipated Non-compliance - The permittee shall give advance notice to the Department of any planned changes in the permitted operation which may result in non-compliance with permit requirements, including a report on steps taken or to be taken to eliminate or minimize the impacts on water quality.
 6. Non-Compliance Reporting - The permittee shall record and report to the appropriate Department Regional Office any ***manure storage facility issues identified in the Self Inspection Report attached to this permit, and any*** non-compliance with the terms and conditions of this permit that may endanger public health or safety or the environment or any ***wet weather [Deleted – rain]*** event that caused any

discharge or overflows. This information shall be provided ***[deleted – orally] as soon as possible, but not later than 4 hours [deleted – 24 hours]*** after the time the permittee becomes aware of the ***incident [Deleted - circumstances] causing or threatening pollution.*** A completed Non-Compliance Discharge Report shall be submitted to the Department within ***5 days of becoming aware of the incident [deleted – within two weeks of the oral report].*** Where necessary, the Non-Compliance Discharge Report shall be supplemented with a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; if not already corrected, the anticipated time the noncompliance is expected to continue; discharge sampling results; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. ***If reasonably possible, the above shall also include permittee notification of known downstream users of incidents causing or threatening pollution pursuant to 25 Pa. Code Chapter 91.33.***

7. Annual Report – ***An annual report shall contain all information required by 40 CFR § 122.42(e)(4), The annual report shall cover the reporting period of October 1 to September 30 and shall be received by the Department on or before December 31. The October 1 to September 30 reporting period applies to manure applications and crop planting dates even if the crop is harvested after September 30. The submitted report shall include all information identified on the “Annual Report Form” attached to this permit. [deleted – An annual report shall be submitted to the Department on the anniversary date of the Coverage Approval date. The report shall include the following items, at a minimum: Note: The 7 reporting items previously listed have been incorporated into the Annual Report Form.]***

[Deleted - Other Reporting - Submittal of new or amended NMPs has been moved to C.I.A]

8. Other Non-compliance – The permittee shall record and maintain self-inspection reports for all instances of non-compliance with this permit that are not specifically required to be recorded elsewhere. ***[Deleted – The reports shall contain the information listed in paragraph 6 of this section]*** Compliance with the above reporting requirement shall not excuse the permittee from notification of incidents causing or threatening pollution pursuant to 25 Pa. Code § 91.33.1
9. Signatory and Certification Requirements - The completed forms and reports shall be signed and certified either by the following applicable person (as defined in 40 CFR §122.22(a)) or by that person's duly authorized representative (as defined in 40 CFR § 122.22(b)):
- for a corporation - by a responsible corporate officer.
 - for a Partnership or Sole Proprietorship - by a general partner or the proprietor, respectively.
 - for a Municipality, State, Federal or other public agency - by a principal executive officer or ranking elected official.

If signed by other than the above, written notification of delegation of DMR signatory authority must be submitted to the Department.

10. Copies of all records of self-inspections, annual reports, and other monitoring inspections required by this permit shall be retained for a period of at least five (5) years and shall be made available to the Department for review upon request.

PART B

I. MANAGEMENT REQUIREMENTS

A. Permit Renewal, Modification, Suspension, Termination, or Revocation and Reissuance

1. This permit may be renewed, modified, suspended, terminated, or revoked and reissued during its term for any of the causes specified in 25 Pa. Code Chapter 92a.

2. Filing of a request by the permittee for any of the actions in paragraph I.A.1, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
 3. In the absence of a Departmental action as described in paragraph I.A.1, the permittee shall comply with any applicable effluent limitations and other requirements within the time specified in **§ 92a.51**.~~**[Deleted - § 92.55]**~~
 4. Permit renewal, modification, suspension, termination, or revocation and reissuance will be conducted according to 25 Pa. Code Chapter 92a. ~~**[Deleted – of DEP’s rules and regulations]**~~
 5. In the event that the permittee proposes to modify the operation in a manner that requires an amendment to the NMP under 25 Pa. Code Chapter 83, the permittee shall notify the Department and, if required, submit a new NOI to amend coverage under the General Permit prior to implementing the modifications to the facilities. The Department may approve or deny the NOI as provided by **25 Pa. Code** Chapter 92a. If the Department denies the NOI, then the permittee shall apply for and obtain an individual permit pursuant to the instructions by the Department in the denial letter. **Refer to Additional Provisions number 6 of this permit if the proposed modification includes an increase in AEUs that exceeds ten percent (10%) of the number of AEUs listed in the NMP.**
- B. Duty to Provide Information
1. The permittee shall furnish to the Department within a reasonable time any information that the Department may request to determine whether cause exists for modifying, renewing, suspending, terminating, or revoking and reissuing coverage approved under this General Permit, or to determine compliance with this General Permit.
 2. Upon request, the permittee shall furnish to the Department copies of records required by this General Permit.
 3. Where the permittee becomes aware that relevant facts were not submitted in an NOI, or incorrect information was submitted in an NOI or in any subsequent report to the Department, the permittee shall promptly submit such facts or information to the Department.
 4. The permittee shall give advance notice to the Department of any planned physical alterations or additions to the operation that could in any way affect the impact on surface waters by the CAFO.
 5. **Changes to the NMP that are likely to increase the risk of nitrogen and phosphorous transport to surface waters are classified as substantial changes which require an amendment of the NMP with full public notice and comment pursuant to Part B.I.A.5 and C.I.A of this permit.**

C. Facilities Operation

The permittee shall at all times maintain in good working order and properly operate and maintain all facilities and systems which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, regular inspection and maintenance programs, and the provision of adequate controls and quality assurance procedures.

II. PENALTIES AND LIABILITY

A. Penalties for Violations of Permit Conditions

Any person who violates any provision of this permit, any rule, regulation, or order of the Department, or any condition or limitation of any permit issued pursuant to the Clean Streams Law is subject to criminal and civil penalties, or both, as set forth in Sections 602, 603 and 605 of the Clean Streams Law.

Any person violating Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, including this permit, or any permit condition or limitation implementing such sections in a permit issued under Section 402 of the Act is subject to civil, administrative, and/or criminal penalties as set forth in 40 CFR § 122.41(a)(2).

B. Falsifying Information

Any person who (1) falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit; or (2) knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit (including monitoring reports or reports of compliance or noncompliance) is subject to a fine and/or imprisonment as set forth in 18 P.S. Section 4904 and 40 CFR Sections 122.41(j)(5) and (k)(2).

C. Liability

1. Nothing in this General Permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance pursuant to the Clean Streams Law or the Act.
2. Nothing in this General Permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under the Clean Streams Law or the Act.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee 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 General Permit.

III. OTHER RESPONSIBILITIES

A. Right of Entry

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law, and 25 Pa. Code Chapter 92a, the permittee shall allow the Department, the EPA Regional Administrator, and/or their authorized representatives, upon the presentation of credentials and other documents as may be required by law:

1. To enter upon the permittee's premises where a regulated facility, activity or operation is located or conducted, or where records must be kept under the conditions of this permit;
2. To have access to and copy at reasonable times any records that must be kept in accordance with the conditions of this permit;
3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit;
4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Streams Law or Clean Water Act, any substances or parameters at any location.
5. The Department, EPA, or their authorized agents shall not exercise this right so as to compromise the health, safety, and welfare of people or the environment and shall adhere to industry standards for biosecurity. In the event of a contagious disease outbreak, the Department's actions will be consistent with **25 Pa. Code** Chapter 83, Subchapter D (Nutrient Management Regulations).

B. Transfer of Permits

1. Transfers by modification - Except as provided in paragraph (2) of this section, the Approval for Coverage may be transferred by the permittee to a new owner or operator only if the Approval for Coverage has been modified or revoked and reissued by the Department to identify the new permittee and incorporate such other requirements as may be necessary under **25 Pa. Code** Chapter 92a or the Clean Water Act.
2. Automatic transfers - As an alternative to transfers under paragraph (1) of this section, any Approval for Coverage may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in accordance with paragraph (2)(b) of this section;
 - b. The notice includes the appropriate Department transfer form signed by the existing and proposed

new permittees, containing an effective date for transfer of permit responsibility and terms of transfer and liability between them; and

- c. The Department does not notify the existing permittee and the proposed new permittee of its denial of the transfer within 30 days of receipt of written notification from the current permittee. If this notice from the Department is not received, the transfer is effective on the date specified in the transfer form mentioned in paragraph (2)(b) of this section.

3. In the event the Department does not approve a transfer of the Approval for Coverage, the new owner or operator must submit an NOI, or new permit application as specified by the Department.

C. Property Rights

The issuance of this permit does not convey any property rights of any sort or any exclusive privilege.

D. Other Laws

1. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.
2. ***Nothing in this permit relieves the permittee, owner or operator from the obligation to comply with applicable federal, state, or local laws and regulations***

E. Notification of Intent to Cease Operation

1. Notice of Termination (NOT) - When the operations permitted under this permit will cease or be eliminated, the permittee shall submit a letter and an NOT of the operation signed in accordance with the signatory requirements contained in this permit not less than 30 days before the cessation of operations.

The NOT shall include the following information:

- a. Name, mailing address, and location of the operation for which the notification is submitted. Where a mailing address for the site is not applicable, the location shall be described in terms of the latitude and longitude to the nearest 15 seconds.
- b. The permittee's name, address, telephone number and ownership status.
- c. The CAFO NPDES permit number and issue date;
- d. The effective date of and reason for stopping the operations;
- e. The following certification duly signed in accordance with the signatory requirements:

"I certify under penalty of law that the above CAFO has ceased operation or will cease operation on the date shown at the location specified in this application. I understand that by submitting this notice of termination I am no longer authorized to operate a CAFO at this location. I also understand that operating CAFOs without a Department permit in the Commonwealth is unlawful under the Clean Water Act and Clean Streams Law".

2. Where to submit NOTs: All Notices of Termination are to be sent to the Department's Regional Office that issued the original CAFO Approval for Coverage.

F. Facility Closure Plan Requirements

All NOTs must be accompanied with a facility/operation closure plan that shall include:

1. Where not otherwise required by the Nutrient Management Plan, a plan for the removal and disposing of all animal waste, processing waste, and bedding material in an environmentally safe manner. The manure and manure-contaminated biodegradable material, including soils, may be land applied in accordance with the Manure Management for Environmental Protection Manual or the facility's Nutrient Management Plan.
2. An estimate of the date or season and year in which final facility closure will occur.

3. Erosion and sedimentation control with a schedule of steps.
4. Re-grading, re-vegetation, and stabilization of the affected area.
5. For existing earthen lined facilities with groundwater monitoring wells in place, an operation plan for post closure monitoring for a one (1) year period to assure protection of groundwater resources. A written report of monitoring results shall be submitted to the Department at the end of that period. A final close out inspection of the leak detection system following removal of the manure storage facility must be completed within 30-days of the expected termination date for the operation. A written report of the close out inspection shall be submitted to the Department 30 days after the final close out of the facility.
4. The name, address, and telephone number at which the permittee and or person in charge of the closure operation can be reached.

PART C

I. SPECIAL PERMIT REQUIREMENTS

In addition to the other requirements of this General Permit, the permittee shall maintain compliance with the following CAFO specific requirements.

A. Nutrient Management Plans (NMPs) and Manure Management

1. ***[Deleted – Except as provided in A.2]*** The permittee shall implement a Nutrient Management Plan (NMP) ***including all BMPs in the plan*** approved under 25 Pa. Code Chapter 83, Subchapter D, as amended, including phosphorus-based planning under revisions to 25 Pa. Code § 83.293 and effective October 1, 2006. ***The NMP requirements under 25 Pa. Code Chapter 83 are consistent with the linear approach for nutrient applications set forth in 40 CFR § 122.42(e)(5)(1). All proposed changes to the NMP shall be subject to the requirements in 40 CFR § 122.42(e)(6) and in B.I.A.5. of this permit***
[Deleted – the original A.2]
2. ***The permittee shall submit all approvals of new or amended NMPs to the Department within 30 days of approval, along with a copy of the new or amended NMP. The permittee shall ensure they maintain an approved NMP for the current crop year that runs from October 1 through September 30 of each year.***
3. ***The NMP shall be reviewed annually to ensure manure applications are consistent with 25 Pa. Code § 83.293. Copies of annual NMP reviews must be kept on-site for a minimum of five (5) years and be made available for review during Department inspections.***
4. ***In addition to Part C (I)(A)(1), The permittee shall submit a copy of all NMP revisions (plan updates) to the approved NMP to the Department within 30 days of the revision (plan updates). Such revised (updated) plans must be kept on-site and implemented in accordance with 25 Pa. Code Chapter 83, Subchapter D. requirements.***
5. ***Manure may not be mechanically applied within: 1) 100 feet of the top of the bank of a perennial or intermittent stream with a defined bed and bank, a lake or a pond, unless a permanent vegetated buffer of at least 35 feet in width is used to prevent manure runoff into the stream, lake or pond, 2) 100 feet of an existing open sinkhole unless a permanent vegetated buffer of at least 35 feet in width is used, 3) 100 feet of active private drinking water sources such as wells and springs, 4) 100 feet of an active public drinking water source, unless other State or Federal laws or regulations require a greater isolation distance, and 5) On crop management units having less than 25% plant cover or crop residue at the time of manure application, unless: (a) For fall applications, the crop management unit is planted to a cover crop in time to allow for appropriate growth to control runoff until the next growing season, or the manure is injected or mechanically incorporated within 5 days using minimal soil disturbance techniques consistent with no-till farming practices. and b) For applications in the spring or summer, the crop management unit is planted to a crop that growing season. The Pennsylvania Technical Guide contains practices***

which may be used to satisfy the fall applications requirement. Other practices shall be approved by the Commission. The practices must be consistent with those in the agricultural erosion and sediment control plan.

6. ***Winter Spreading: The permittee shall not spread manure during the winter as defined in 25 Pa. Code § 83.201, except as authorized in the permittee's Nutrient Management Plan, or unless the permittee has fully complied with 25 Pa. Code § 83.372, and has obtained a plan amendment due to unforeseen circumstances. Winter is defined in Part A (I)(A)(24).***
 7. ***There shall be no winter application within, 1) 100 ft. of an above ground agricultural drain inlet where surface flow is toward the inlet, 2) 100 foot of a wetland on the National Wetland Inventory maps which is within the 100 year floodplain of an EV stream segment if surface flow is toward the wetland and 3) fields must have 25% cover or an established cover crop – see 25 Pa. Code § 83.294. Additionally, the setbacks in Part C (I)(A)(5) also shall be implemented.***
 8. Manure generated by the CAFO shall be managed, hauled, and transported in compliance with requirements of the Commercial Manure Hauler and Broker Certification Act and regulations promulgated hereunder, as applicable.
 9. ***For any permittee that exports manure in accordance with an approved NMP as approved in paragraph A.1., the permittee shall complete and maintain current export records on a Department CAFO Manure Export form. Copies of these records must be kept on file at the operation for five (5) years and be made available to the Department for review upon request.***
 10. ***The permittee shall provide a copy of the most recent manure and agricultural wastewater sampling results to the person receiving the manure and agricultural wastewater or his representative.***
 11. ***Manure Stockpiling: Manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water during a storm event up to and including the appropriate design storm for that type of operation under 25 Pa. Code § 91.36(a)(1) and (5) (relating to pollution control and prevention at agricultural operations).***
 12. ***Manure tests are required to be taken annually for each manure type generated on the operation in compliance with 25 Pa. Code § 83.291.***
 13. ***Soil tests are required for each crop management unit at least every three years from the date of the last test in conformance with 25 Pa. Code § 83.292.***
- B. Preparedness, Prevention and Contingency Plan (PPC Plan)

In addition to the Contingency Plan for manure spills required as part of the NMP, the permittee shall develop, implement and, when needed, update the Preparedness, Prevention, and Contingency (PPC) Plan submitted with the NOI application for this CAFO. The PPC Plan must be kept at the site at all times. The Department may, upon written notice, require revisions and corrections to the PPC Plan if it determines the plan to be inadequate.

C. Erosion and Sediment Control Plans (E&S Plans)

1. ***[Deleted – In addition to the Contingency Plan for manure spills required as part of the NMP,] The permittee shall implement and, when needed, update the E&S Plan for plowing or tilling activities and Animal Heavy Use Area operations on all land owned or leased by the permittee in accordance with 25 Pa. Code Chapter 102.***
2. ***All E&S Plans for plowing or tilling activities or Animal Heavy Use Areas must be revised to identify and address Animal Heavy Use Areas and all other plan requirements as specified in 25 Pa. Code §102.4(a) (4) through (7).in order to minimize accelerated erosion and sedimentation. The revised plans must provide appropriate BMPs including a schedule for implementation in accordance with 25 Pa. Code § 102.4(a).***

3. ***When applicable, the permittee must develop and implement an E&S Plan meeting the requirements of 25 Pa. Code § 102.4(b) and*** must have the E&S Plan available on-site at all times during construction of facilities, such as buildings or manure storage facilities.

D. NPDES Permit for Stormwater Discharges during Construction Activities

The permittee shall obtain a separate NPDES permit for stormwater discharges associated with construction activity meeting the requirements of Chapter 102 (relating to erosion and sediment control) when applicable and 25 Pa. Code Chapter 92a (relating to NPDES permits).

E. Animal Mortality

The permittee shall comply with 3 Pa. C.S.A. § 2357 et seq. (relating to the Domestic Animal Law) and § 243.11 when handling and disposing of dead animals. ***The carcass of a dead animal not killed for food shall be removed and disposed of by burial or incineration or some other sanitary method, such as rendering and composting where applicable, within 24 hours after death. If the carcass is buried it shall be placed so that every part shall be covered by at least 2 feet of earth and at a location not less than 100 feet from waters of this Commonwealth, and located out of the 100-yr flood plain. In all cases of death from communicable disease the carcass shall be thoroughly enveloped in unslaked lime. Mortalities shall not be disposed of in any liquid manure or process wastewater system.***

F. Manure Storage Structures and Water Quality Management Permit Requirements

1. The permittee shall keep engineering certifications on-site for any liquid or semi-solid manure storage facilities at the operation. ***The permittee shall also maintain the current design of the manure or litter storage structures on site, as required by 40 CFR § 412.47 and 412.37(b)(5).*** Further, for facilities that require a Water Quality Management permit under ***25 Pa. Code §91.36(a)***, the permittee shall obtain the permit and follow its conditions and requirements. This includes operation and maintenance requirements.

- 2a. ***The permittee shall maintain a minimum 12-inch freeboard for manure storage facilities that are ponds, and a minimum 6-inch freeboard for all other manure storage facilities.***

- 2b. ***The permittee shall install and maintain permanent markers or gauges within the structure to determine freeboard.***

3. ***The permittee shall maintain vegetative growth on the embankments of the earthen manure storage facility at a height no greater than 12 inches to allow for inspection of the embankments. Additionally, the permittee shall prevent the growth of dense or woody vegetation with roots that may affect the structural integrity of the impoundment or the impoundment liner. Animal burrows should be excavated, backfilled with suitable material in well compacted four-inch lifts and reseeded.***

4. ***Sufficient capacity shall be provided at the start of winter to implement the NMP. By _____ each permittee with a manure storage must provide the Department with notification, in writing, of the available manure storage capacity in feet and inches observed on _____ and the amount of manure that is expected to be generated over the winter. The manure storage capacity does not include the freeboard portion of the manure storage facility. If the manure storage does not have sufficient capacity to hold all manure generated over the winter and the NMP does not authorize winter application, the permittee must submit a NMP amendment that describes how the permittee will manage the manure and the manure storage facility to insure that the minimum required freeboard requirement is not violated. The permittee cannot land apply manure during the winter months unless expressly authorized to do so in the NMP.***

6. ***The Permittee shall, on at least a weekly basis, inspect all manure storages and record the results of the inspection on the Manure Storage Facility Record Monthly Inspection form or similar form used for this purpose. This storage shall be inspected for visible cracking, rodent holes, tree and shrub growth on the berms or other problems with the manure storages that would lead to leakage. Visible slope failure, visible tears of any liner, or knowledge of any local water pollution issues associated with the storage facility shall be recorded.***

G. Storage of Feed and other Raw Materials

The permittee shall implement measures and/or BMPs to prevent discharge to surface water from raw material storage areas, including feed storages.

H. Best Management Practices (BMPs)

BMPs for CAFOs are identified in the operation's Nutrient Management Plan and the Erosion and Sediment Control Plan for plowing or tilling activities ***or for Animal Heavy Use Area operations***. At a minimum, the permittee shall implement these BMPs. The Department may require additional BMPs and controls to protect public health and to protect, maintain and restore water quality and the existing and designated uses of waters of the Commonwealth.

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