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Expiration Date: May 31, 2014

OREGON CONFINED ANIMAL FEEDING OPERATION  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
GENERAL PERMIT NUMBER 01-2009

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

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

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



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## DEFINITIONS

1. “25-year, 24-hour rainfall event” means an event with a probable recurrence interval of once in twenty-five (25) years as defined by the National Weather Service in Technical Paper Number 40, “Rainfall Frequency Atlas of the United States,” May 1961, or equivalent regional or state rainfall probability information developed from this source.
2. “40 CFR” means Title 40 of the Code of Federal Regulations (2008).
3. “Animal waste management plan” or “AWMP” means a written document containing the minimum elements necessary to manage manure, litter, and process waste water from operations covered by this permit in accordance with the terms and conditions of this permit. See S3.C, p. 12, for specific plan elements.
4. “CAFO” or “Confined animal feeding operation” as defined in [OAR 603-074-0010\(3\)](#) and [OAR 340-051-0010\(2\)](#) means:
  - (a) The concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms;
    - (i) In buildings or in pens or lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or
    - (ii) That have waste water treatment works; or
    - (iii) That discharge any wastes into waters of the state; or
  - (b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to [40 CFR §122.23](#).
5. “Director” means the directors of the State of Oregon Department of Environmental Quality and Department of Agriculture or their authorized designee(s).
6. “Discharge” when used without qualification means the “discharge of a pollutant.” “Discharge of a pollutant” is defined at [40 CFR §122.2](#).
7. “Frozen soil” means soil that has a soil temperature of 32° F (or 0° C) or less in any three (3) continuous inches of the top twelve (12) inches of soil.
8. “Groundwater” means water in a saturated zone or stratum beneath the surface of land or below a surface water body.
9. “Manure” means manure or other material (e.g., bedding, compost, litter, feed waste, silage leachate, raw materials such as feed or silage) that comes into contact with manure.
10. “Medium confined animal feeding operation” means a confined animal feeding operation that meets the animal numbers specified in any of the following categories. A state medium confined animal feeding operation is only required to apply for this permit if it confines for more than four (4) months and has a waste water control facility or disposal system for wet or dry wastes. (See *Table 1: CAFOs Requiring Permit Coverage*.)
  - (a) 200 to 699 mature dairy cattle, whether milked or dry;
  - (b) 300 to 999 veal calves;
  - (c) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
  - (d) 750 to 2,499 swine each weighing 55 pounds or more;
  - (e) 3,000 to 9,999 swine each weighing less than 55 pounds;
  - (f) 150 to 499 horses;
  - (g) 3,000 to 9,999 sheep or lambs;
  - (h) 16,500 to 54,999 turkeys;
  - (i) 9,000 to 29,999 laying hens or broilers if the operation uses waste water control facilities for wet waste;
  - (j) 37,500 to 124,999 chickens (other than laying hens), if the operation uses waste water control facilities for wet waste;
  - (k) 25,000 to 81,999 laying hens if the operation does not use waste water control facilities for wet waste;
  - (l) 10,000 to 29,999 ducks if the operation does not use waste water control facilities for wet waste; or
  - (m) 1,500 to 4,999 ducks if the operation uses waste water control facilities for wet waste.
  - (n) For other animal types, ODA will determine the appropriate animal numbers by comparing the operation to the most similar animal type listed above.

11. "New source" means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced after April 14, 2003.
12. "Overflow" means the discharge of manure or process waste water resulting from the filling of waste water or manure storage structures beyond the point at which no more manure, process waste water, or storm water can be contained by the structure.
13. "Person" is defined at [OAR 603-074-0010\(13\)](#).
14. "Point source" is defined at [40 CFR §122.2](#).
15. "Pollutant" is defined at [40 CFR §122.2](#).
16. "Pollution" or "water pollution" is defined at [ORS 468B.005\(5\)](#).
17. "Process waste water" or "process wastes" as defined at [OAR 603-074-0010\(17\)](#) and [OAR 340-051-0010\(2\)](#) means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process waste water or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.
18. "Production area" as defined at [OAR 603-074-0010\(18\)](#) and [OAR 340-051-0010\(3\)](#) means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment areas include but are not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of animal mortalities.
19. "Saturated soil" means soil with all available pore space filled that has reached its maximum retentive capacity as defined in "Qualitative Description of Soil Wetness" (Brady, N. and Weil, R., p. 201).
20. "Setback" as defined at [40 CFR §412.4\(b\)\(1\)](#) means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process waste water may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.
21. "Small confined animal feeding operation" means a confined animal feeding operation with animal numbers below the medium confined animal feeding operation levels that is not designated as a small concentrated animal feeding operation. A small confined animal feeding operation is only required to apply for this permit if it confines for more than four (4) months and has a waste water control facility or disposal system for wet wastes. (See *Table 1: CAFOs Requiring Permit Coverage*.)
22. "Vegetative buffer" as defined at [40 CFR §412.4\(b\)\(2\)](#) 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.
23. "Wastes" is defined at [ORS 468B.005\(9\)](#).
24. "Waste storage facilities" means the physical system used for the isolation and retention of process wastes on the confined animal feeding operation until their ultimate utilization.
25. "Waste water control facility" means a "disposal system" or "treatment works" defined at [ORS 468B.005\(8\)](#).
26. "Water" or "waters of the state" is defined at [ORS 468B.005\(10\)](#).
27. "Waters of the U.S." is defined at [40 CFR §122.2](#).

## SPECIAL CONDITIONS

### S1. PERMIT COVERAGE

#### S1.A. When is a Permit Required?

1. Pursuant to [ORS 468B.200](#), it is the policy of the State of Oregon to protect the quality of groundwater and surface waters of Oregon by preventing animal wastes from discharging into waters of the state. To implement this policy, [ORS 468B.050\(1\)\(d\)](#) requires that any person who owns or operates a *confined animal feeding operation (CAFO)* listed in S1.A.2 below obtain a permit from ODA and DEQ. As a result, there is no state process to certify that a CAFO does not discharge or propose to discharge to waters of the state and permit coverage is required regardless of discharge status. Coverage under this general permit is required for all CAFOs listed in S1.A.2 unless application is made for an individual permit or an individual permit is required by ODA and DEQ.
2. Any person who owns or operates a CAFO defined as follows is required by [ORS 468B.050\(1\)\(d\)](#) to obtain coverage under this permit (see Table 1 below for more detail):
  - (a) *Small confined animal feeding operation* that confines animals for more than four (4) months and has a waste water control facility or disposal system for wet wastes.
  - (b) *Medium confined animal feeding operation* that confines animals for more than four (4) months and has a waste water control facility or disposal system for wet or dry wastes.
  - (c) *Small, medium, or large concentrated animal feeding operation* defined in [40 CFR §122.23\(b\)](#).

**Table 1: CAFOs Requiring Permit Coverage**

| Type of confined animal feeding operation requiring permit coverage | CONFINED  |  | CONCENTRATED  |   |   |
|---|---|--|---|---|---|
|   | • Confines more than one animal for more than 4 months on prepared surface                |  | • Stabled or confined and fed or maintained for total of 45 days or more in any 12-month period<br>• Crops, vegetation, forage growth, or post-harvest residues not sustained in normal growing season in lot or facility |   |   |
|   | <i>Small Confined</i><br>• Waste water control facility or disposal system for wet wastes | <i>Medium Confined</i><br>• Waste water control facility or disposal system for wet <u>or</u> dry wastes | <i>Small Concentrated</i><br>• Significant contributor of pollutants to waters of the U.S.<br>• Designated by director [40CFR §122.23(b)(9)]  | <i>Medium Concentrated</i><br>• Discharging pollutants to waters of the U.S. [40 CFR §122.23(b)(6)] | <i>Large Concentrated</i><br>[40 CFR §122.23(b)(4)] |
| mature dairy cows <sup>1</sup>                                      | <200  | 200-699  | <200  | 200-699   | ≥700  |
| veal calves   | <300  | 300-999  | <300  | 300-999   | ≥1,000  |
| cattle <sup>2</sup>   | <300  | 300-999  | <300  | 300-999   | ≥1,000  |
| swine ≥ 55 lbs  | <750  | 750-2,499  | <750  | 750-2,499   | ≥2,500  |
| swine < 55 lbs  | <3,000  | 3,000-9,999  | <3,000  | 3,000-9,999   | ≥10,000   |
| horses  | <150  | 150-499  | <150  | 150-499   | ≥500  |
| sheep or lambs  | <3,000  | 3,000-9,999  | <3,000  | 3,000-9,999   | ≥10,000   |
| turkeys   | <16,500   | 16,500-54,999  | <16,500   | 16,500-54,999   | ≥55,000   |
| chickens, including laying hens or broilers w/wet waste system      | <9,000  | 9,000-29,999   | <9,000  | 9,000-29,999  | ≥30,000   |
| laying hens w/dry waste system                                      | NA  | 25,000-81,999  | <25,000   | 25,000-81,999   | ≥82,000   |
| broiler chickens w/dry waste system                                 | NA  | 37,500-124,999   | <37,500   | 37,500-124,999  | ≥125,000  |
| ducks w/other than wet waste system                                 | <10,000   | 10,000-29,999  | <10,000   | 10,000-29,999   | ≥30,000   |
| ducks w/wet waste system  | <1,500  | 1,500-4,999  | <1,500  | 1,500-4,999   | ≥5,000  |
| other animal type   | As determined by ODA. <sup>3</sup>  |  | Designated by director.   | NA  | NA  |

<sup>1</sup> Whether milked or dry.

<sup>2</sup> Other than mature dairy cows or veal calves; cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

<sup>3</sup> To determine the number of animals that require permit coverage, ODA will compare the operation to the most similar animal type in the table.

3. Any person not wishing to be covered by this permit may apply for an individual permit in accordance with [OAR 340-045-0030](#).

Note: Failure to obtain coverage under this permit is a violation of [ORS 468B.050 and 468B.215](#) except as provided in S1.F Individual Permit Coverage, p. 7.

### **S1.B. Election of Permit Coverage**

Any person who owns or operates a CAFO who is not required to obtain coverage under this permit may elect to be covered by this permit. Any person making such an election is subject to all terms and conditions of the permit unless and until permit coverage is terminated.

### **S1.C. Requirements and Schedule to Obtain Permit Coverage**

#### 1. Application for Proposed CAFO

To obtain permit coverage, any person proposing a new CAFO that is regulated by this permit (see S1.A above) or electing to be covered by this permit must submit an *ODA Application to Register (ATR)* and Animal Waste Management Plan (AWMP) at least 180 days prior to the time that the operation commences. For information on AWMP requirements, see S3, p. 12.

#### 2. Future Renewal of General Permit Coverage

To renew general permit coverage, the permittee must submit a renewal application by the date specified by ODA but no later than the expiration date of this permit.

3. ODA will notify the applicant in writing if permit coverage is approved or denied. Permit coverage does not begin until this written notice is provided by ODA to the applicant. Written notification will include an *ODA Notice of Registration* that will include the following:

- (a) The owner or operator's legal name;
- (b) Facility name and location;
- (c) Contact information, including mailing address and telephone number;
- (d) Effective date of permit coverage;
- (e) Maximum number of animals allowed at the facility; and
- (f) Regulatory status of the operation.
  - (i) ODA will use the following classifications for regulatory status:
    - (1) *Large concentrated animal feeding operation* as defined in [40 CFR §122.23\(b\)\(4\)](#);
    - (2) *Medium concentrated animal feeding operation* as defined in [40 CFR §122.23\(b\)\(6\)](#);
    - (3) *Small concentrated animal feeding operation* as defined in [40 CFR §122.23\(b\)\(9\)](#) and designated by the director pursuant to [OAR 603-074-0012](#);
    - (4) *Medium confined animal feeding operation* as defined in this permit (#10, p. 3); or
    - (5) *Small confined animal feeding operation* as defined in this permit (#21, p. 4).
  - (ii) A *small or medium confined animal feeding operation* will be categorized as *concentrated* if:
    - (1) A discharge to waters of the U.S. occurs that is not allowed by this general permit, and
    - (2) The operator does not or cannot make the change(s) necessary to prevent such discharge from recurring to the satisfaction of ODA.

4. Coverage under this permit will be cancelled upon the issuance of an individual permit.

### **S1.D. General Permit Coverage**

1. Consistent with [ORS 468B.200](#), ODA and DEQ developed this general permit to prohibit routine discharges of manure, litter, and process waste water from CAFO operations to waters of state. Discharges of manure, litter, or process waste water to waters of the state are only expected to occur under extreme weather conditions and as limited by the conditions of this general permit. Further, the general permit only authorizes the discharge of pollutants resulting from the processes, wastes, and operations that have been clearly identified in the permittee's AWMP approved by ODA.

2. This permit does not cover disposal of human wastes or waste water control systems that mix human and animal wastes. Any person owning or operating such a system must apply to DEQ for coverage under an individual or general permit issued pursuant to [ORS 468B.050](#). This general permit for CAFOs may be used in addition to an individual or general permit issued by DEQ pursuant to [ORS 468B.050](#).
3. Except for any toxic effluent standards and prohibitions imposed under [section 307 of the federal Clean Water Act \(CWA\)](#) and groundwater protection requirements established under [OAR 340-040](#), a permittee in compliance with this permit during its term is considered to be in compliance, for purposes of enforcement, with state water quality laws and relevant sections of the CWA as provided in [40 CFR §122.5](#). The specific effect of permit compliance on enforcement authority is set out in [OAR 340-045-0080](#).

**S1.E. Request for Cancellation**

1. Any permittee may request in writing to ODA that coverage under this permit be cancelled if:
  - (a) Conditions or standards have changed so that the CAFO no longer qualifies for or is required to have coverage under this permit; or
  - (b) The CAFO no longer has animals on site and all waste storage and control facilities have been decommissioned in accordance with Natural Resources Conservation Service (NRCS) conservation practice standard, code 360, entitled *Closure of Waste Impoundments (January 2006)*; and
  - (c) The permittee certifies that it will not commence operation of a CAFO regulated by this permit at the same location without making a new application for registration under this general permit and is granted coverage or applies for and is issued an individual permit.
2. ODA will respond to the request for cancellation by conducting a site inspection and review of the permittee's file. ODA will notify the permittee in writing of termination of coverage under this permit or deny the request with an explanation of why the request was denied.

**S1.F. Individual Permit Coverage**

1. When appropriate, the director may require any person to obtain an individual permit pursuant to [OAR 340-045-0033\(10\)](#). In such cases, the person will be notified in writing by the director. At a minimum, the written notice will include the reason why an individual permit is being required, an application form, the amount of the permit fee due at application, and application due date.
2. If coverage under this permit has been obtained prior to the requirement for an individual permit, this permit will remain effective until the individual permit is issued provided the application for individual permit was properly made.

**S1.G. Request for Confidentiality**

The name and address of an NPDES permit applicant or permittee, NPDES permit applications (e.g., *ODA ATRs*) and their attachments (e.g., *AWMPs*), NPDES permits, and NPDES permit discharge data cannot be kept confidential pursuant to [40 CFR §122.7\(b\) and \(c\)](#). For other information, the permittee may request that the director evaluate claims of confidentiality according to the procedures established in [ORS 468.095\(2\)](#).

**S1.H. Public Notice and Participation Requirement**

1. Prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to an *AWMP*, ODA will provide public notice and participation as detailed in Table 2 below.
2. ODA may batch multiple notices as regionally appropriate.
3. Application and permit documents (e.g., *ODA ATR*, renewal application, *AWMP*) will be available for public review at ODA headquarters and appropriate field offices. If available, electronic copies of documents will be provided upon request.
4. Public hearings will be scheduled if written requests for public hearing are received during the comment period from at least ten persons or from an organization or organizations representing at least ten persons. If a hearing is scheduled, ODA will provide at least 30 days notice before the hearing is held. The public comment period will remain open for additional comments for at least 7 days after the public hearing.

**Table 2: CAFO Public Notice Requirements**

|  | All Operations   |  | Small or Medium Confined   | Small, Medium, or Large Concentrated   |
|--|--|--|--|--|
| <b>Permit Action</b>   | (a) Receipt of ODA <i>ATR (Application to Register)</i> for existing operation not under permit or new proposed operation  | (b) Receipt of renewal application   | (c) Receipt of proposed substantial change to <i>small or medium confined animal feeding operation's</i> AWMP (see S3.D.1, p. 13)  | (d) Receipt of proposed substantial change to <i>small, medium, or large concentrated animal feeding operation's</i> AWMP (see S3.D.2, p. 14)  |
| <b>Public Participation Process</b>  | (i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> <li>Published in regional newspaper;</li> <li>Posted on ODA and DEQ websites; and</li> <li>Emailed to interested parties list maintained by ODA.</li> </ul> (ii) Opportunity for public hearing. See S1.H.4, p. 7.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested parties. | (i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> <li>Posted on ODA and DEQ websites; and</li> <li>Emailed to interested parties list maintained by ODA.</li> </ul> (ii) Opportunity for public hearing. See S1.H.4, p. 7.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested parties. | (i) Public notice of a comment period of at least 14 days provided as follows: <ul style="list-style-type: none"> <li>Posted on ODA and DEQ websites; and</li> <li>Emailed to interested parties list maintained by ODA.</li> </ul> (ii) Opportunity for public hearing. See S1.H.4, p. 7.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested parties. | (i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> <li>Posted on ODA and DEQ websites; and</li> <li>Emailed to interested parties list maintained by ODA.</li> </ul> (ii) Opportunity for public hearing. See S1.H.4, p. 7.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested parties. |
| <b>Contents of Public Notice</b><br>Note: Access to the AWMP will also be provided for public review; however, not all AWMPs will be available electronically. | <ul style="list-style-type: none"> <li>Name of operation</li> <li>Name of operator or owner if different than operator, mailing address, and telephone number</li> <li>Physical address of operation</li> <li>Type of operation</li> <li>Number of animals proposed</li> <li>Land Use Compatibility Statement (LUCS)</li> <li>AWMP summary</li> </ul>  | <ul style="list-style-type: none"> <li>Name of operation</li> <li>City, county, and zip code</li> <li>Permit registration number</li> <li>Type of operation</li> </ul>   | <ul style="list-style-type: none"> <li>Name of operation</li> <li>City, county, and zip code</li> <li>Permit registration number</li> <li>Type of operation</li> <li>Overview of proposed substantial change</li> </ul>  | <ul style="list-style-type: none"> <li>Name of operation</li> <li>City, county, and zip code</li> <li>Permit registration number</li> <li>Type of operation</li> <li>Overview of proposed substantial change</li> </ul>  |

## S2. DISCHARGE LIMITATIONS AND OPERATING REQUIREMENTS

### S2.A. Discharge Limitations

The permittee is prohibited from discharging manure, litter, or process waste water to surface waters and groundwaters of the state, except as allowed in S2.B and S2.C and provided the discharges allowed by S2.B and S2.C do not cause or contribute to a violation of state water quality standards. Discharges to surface waters due to upset or bypass are authorized only in accordance with applicable requirements in G16 Bypass [40 CFR §122.41(m)], p. 23 and G17 Upset [40 CFR §122.41(n)], p. 24.

Types of discharge that are prohibited include but are not limited to: contaminated runoff from confinement or waste accumulation areas; overflow or discharges from waste storage facilities; discharges due to improper land application activities from surface drainages or field tile outlets; discharges due to equipment failure; or leakage or seepage from facilities in the production area in excess of approved designs.

### S2.B. Production Area Limitations

1. For all *small and medium confined animal feeding operations and small, medium, and large concentrated animal feeding operations, except new source swine, poultry, and veal large concentrated animal feeding operations:*

The permittee is prohibited from discharging manure, litter, or process waste water to surface waters of the state from the production area, except when:

- (a) Rainfall events cause an overflow of waste management and storage facilities designed, constructed, operated, and maintained to contain all manure, litter, and process waste water including the contaminated runoff and direct precipitation from a 25-year, 24-hour rainfall event; and
- (b) The production area is operated in accordance with the applicable inspection, maintenance, recordkeeping, and reporting requirements of this permit.

2. For new source swine, poultry, and veal *large concentrated animal feeding operations:*

The permittee is prohibited from discharging manure, litter, or process waste water to surface waters of the state.

3. The permittee must properly land apply or otherwise handle authorized discharges from the production area in a way that minimizes impacts on surface water and groundwater of the state and complies with state water quality standards.
4. The permittee must not exceed the seepage design rates approved by ODA for waste storage or animal confinement facilities and seepage to groundwater from these facilities must not violate state groundwater quality protection standards.

### S2.C. Land Application Limitations

1. When applying manure, litter, or process waste water to lands, the permittee must apply at agronomic rates in accordance with the permittee's ODA-approved AWMP. Land application areas include land under the control of the permittee, whether it is owned, rented, or leased, to which manure, litter, or process waste water from the production area is or may be applied.
2. The permittee's discharges to groundwater due to seepage below the root zone of the crop or by other means must not violate state groundwater quality protection standards.
3. The permittee is allowed to apply manure, litter, or process waste water to frozen soil provided:
  - (a) Its AWMP addresses such applications [see S3.C.3(j)];
  - (b) Discharge to surface waters and groundwaters of the state will not occur, except as allowed in S2.B and S2.C; and
  - (c) Land applications do not cause or contribute to a violation of state water quality standards.

4. The permittee is prohibited from applying manure, litter, or process waste water to saturated soils or during rainfall events that are expected to result in saturated soils or surface runoff. When such an application is a desired alternative to allowing waste storage or waste water control facilities to overflow (e.g., land application to saturated soils to pond waste water onsite provides for greater protection of surface waters than a direct overflow of a waste storage tank to surface waters), the land application will be considered an upset condition and the permittee must comply with the provisions of G17 Upset [40 CFR §122.41(n)], p. 24.

**S2.D. Direct Access by Animals to Surface Waters of the State in the Production Area Prohibited**

The permittee must prevent direct animal contact with surface waters of the state in the production area of its CAFO. Direct animal contact means any situation where animals in the production area have free access and are allowed to loiter or drop waste in surface waters. Direct contact with surface waters by animals on pasture or rangeland is not, by itself, a violation of this permit.

**S2.E. Waste Storage Facilities**

1. The permittee must provide adequate storage capacity for solid and liquid wastes at all times so that land application occurs only during periods when soil and weather conditions allow for agronomic application and are in compliance with the Land Application Limitations in S2.C, p. 9 of this permit.
2. The permittee must site, design, construct, operate, and maintain all waste storage facilities consistent with the AWMP. New and modified construction of waste facilities must be approved in advance and prior to construction by ODA in conformance with [ORS 468B.055](#) and OARs [340-051](#) and [603-074](#).
3. The permittee with a *large concentrated animal feeding operation* must also have depth markers in all surface liquid impoundments (e.g., lagoons, ponds, tanks) designed to clearly indicate the:
  - (a) Maximum design volume,
  - (b) Minimum capacity necessary to contain the 25-year, 24-hour rainfall event, including additional freeboard requirements, and
  - (c) Depth of manure and process waste water.

**S2.F. Prevention of System Overloading**

1. The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by ODA in the *Notice of Registration and General Permit Summary* until an updated plan is approved in writing by ODA (see S3.B AWMP Submittal, p. 12, and S3.D AWMP Changes, p. 13).
2. Animal numbers must not exceed the capacity of the waste storage facilities.

**S2.G. Handling of Animal Mortalities**

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

**S2.H. Proper Operation and Maintenance**

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

**S2.I. Maintaining Compliance if System Fails**

The permittee must control all applications and discharges upon reduction, loss, or failure of the waste storage or utilization facilities until the facilities are restored or an alternative method of storage or utilization is provided.

**S2.J. Setback Requirement**

The permittee must develop a setback for any mechanical application of manure, litter, or process waste water occurring in the land application area(s) adjacent to any surface waters, open tile intake structures, sinkholes, well heads, or other conduits to surface or ground waters where manure, litter, and other process waste waters are prohibited. The setback distances must be included in the permittee's AWMP. For a *large concentrated animal feeding operation*, this setback area must be 100 feet or, as a compliance alternative and if demonstrated to the satisfaction of ODA in the AWMP, the permittee for the *large concentrated animal feeding operation* may:

1. Establish a 35-foot vegetated buffer where manure, litter, and other process waste waters are prohibited; or
2. Demonstrate that a setback or vegetated buffer is not necessary or may be reduced because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot setback.

**S2.K. Manure, Litter, or Process Waste Water Transfers**

1. The permittee retains responsibility of the manure, litter, or process waste water until the transfer or export is completed with the required documentation.
2. The permittee must maintain manure, litter, or process waste water transfer or export records as required by S4.C.2(d), p. 17.
3. Prior to transferring manure, litter, or process waste water to other persons, the permittee with a *large concentrated animal feeding operation* must provide the recipient of manure, litter, or process waste water with the a manure nutrient analysis conducted within the previous 12 months.

**S2.L. Proper Disposal of Other Wastes**

Chemicals, contaminants, and other wastes may not be disposed of in any treatment or storage system for contaminated storm water from the production area, manure, litter, or process waste water unless the system is designed to treat such chemicals, contaminants, or wastes and the chemical, contaminants, or other wastes are identified in the AWMP. In addition, chemicals, contaminants, and other wastes may not be disposed of in any system designed for diversion of uncontaminated storm water.

### **S3. ANIMAL WASTE MANAGEMENT PLAN**

#### **S3.A. Animal Waste Management Plan (AWMP) Implementation and Compliance**

1. Upon registration to this permit, the permittee must implement its current ODA-approved AWMP developed for its CAFO.
2. The permittee's ODA-approved AWMP is incorporated into this permit by reference. The permittee must comply with all terms and conditions of its ODA-approved AWMP. Failure to comply with the ODA-approved AWMP constitutes a violation of the terms and conditions of this permit.
3. Absence of an AWMP or absence of ODA approval of an AWMP does not allow the permittee to violate the provisions of S2 Discharge Limitations and Operating Requirements, p. 9, or other permit requirements.

#### **S3.B. AWMP Submittal and Public Notice**

1. The applicant proposing a new CAFO or electing coverage under this permit must submit its AWMP with the *ODA ATR* to ODA for review and approval according to the schedule provided in S1.C, p. 6.
2. If necessary to meet the AWMP requirements in this permit, the existing permittee with coverage under the previous version of this general permit must submit a revised or updated AWMP prior to renewing registration under this permit.
3. AWMPs are subject to public notice and participation requirements detailed in S1.H, p. 7.

#### **S3.C. AWMP Elements**

1. The permittee must ensure that its AWMP is adequate for the proposed or existing population of animals, reflective of the proposed or existing operation, and be prepared in accordance with the terms and conditions of this permit, [OAR 340-051](#), and NRCS conservation practice standard guidance 590 for Oregon dated May 2008 entitled *Nutrient Management*.

Note: In the event of any inconsistency between the conditions of this permit and NRCS 590, the conditions of this permit apply.

2. The AWMP may include a schedule for improvement projects.
3. The AWMP must to the extent applicable include the following:
  - (a) Procedures to ensure collection, handling, and storage of contaminated storm water runoff from the production area, manure, litter, and process waste water in compliance with the requirements of S2. Discharge Limitation and Operating Requirements. Calculations used to determine that storage capacity exists must be provided, including a demonstration that facilities are at least designed and constructed to contain all manure, litter, process waste water, contaminated storm water runoff from the production area, and direct precipitation from a 25-year, 24-hour rainfall event.
  - (b) Procedures to ensure proper operation and maintenance of the storage facilities.
  - (c) Procedures for proper management of animal mortalities. Animal mortalities may not be disposed of in any storage or treatment system that is not specifically designed to treat animal mortalities.
  - (d) Procedures to ensure that clean water is diverted, as appropriate, from the production area.
  - (e) Procedures to prevent direct contact of confined animals with surface waters.
  - (f) Identification of appropriate site-specific conservation practices to be implemented, including buffers, setback areas, or equivalent practices, to control runoff of pollutants to surface water and groundwater.
  - (g) Protocols to land apply manure, litter, or process waste water in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process waste water. The protocols must include the following:
    - (i) The NRCS Phosphorous Index, USDA/NRCS Oregon Agronomy Technical Note #26, revised June 2008, must be completed for all fields that receive manure, litter or process waste water to determine if nitrogen or phosphorous is the most limiting nutrient. The maximum nutrient

application rate must be calculated for the most limiting nutrient (from Technical Note #26) and must account for all other nitrogen and phosphorus sources.

- (ii) Expected crop yields.
- (iii) Calculations showing the total nitrogen and phosphorus to be applied annually to each field, including sources other than manure, litter, or process waste water.
- (iv) Annual manure application rates and an explanation of the basis for determining these rates. For *large concentrated animal feeding operations*, these rates must be based on actual test data. For other operations, data or “book values” from established reference sources (e.g., Oregon Animal Waste Management program) may be used instead of actual testing.
- (v) Method(s) used to apply manure, litter, or process waste water.
- (vi) Timing of manure, litter, and process waste water applications.
- (h) For all operations, protocols for soil testing. For *large concentrated animal feeding operations*, protocols for testing of manure, litter, and process waste water. For other operations that are not required to test manure, litter, or process waste water, test protocols are not required but the references that are used to characterize manure, litter, or process waste water must be included.
- (i) An Agricultural Compost Management Plan if required by [OAR 340-096](#) for composting activities.
- (j) Frozen soil application procedures if applications of manure, litter, or process waste water will be made to frozen soil. At a minimum, the following must be provided:
  - (i) Description of the potential receiving field(s), estimates of waste amounts and types, and estimated timing of applications.
  - (ii) Aerial photo(s) identifying all areas and surface water bodies within 1,000 ft. of the boundaries of the receiving field(s).
  - (iii) Soil map(s) identifying soil types for receiving field(s).
  - (iv) Topographic map(s) for receiving field(s).
  - (v) Description of the structural practices in place to ensure that no discharges to surface water occur during application and after the soil thaws.
  - (vi) Description of the method used to determine when soil is frozen and management practices to be followed when planning an application and during and after an application to frozen soil.
  - (vii) Description of monitoring and reporting requirements to ensure that the permittee is in compliance with frozen soil application procedures.
- (k) Procedures for transfer or export of manure, litter, or process waste water.
- (l) Identification of specific records that will be maintained to document the implementation and management of the minimum elements described above.

### S3.D. AWMP Changes

1. Requirements for small or medium confined animal feeding operations (see Table 3, p. 15, for an overview)
  - (a) *Substantial changes.* The permittee must submit any proposal to make substantial changes to its AWMP to ODA for approval at least 45 days in advance of the proposed changes. ODA will public notice the proposal as described in S1.H, p. 7. ODA will notify the permittee of its final decision concerning the proposed changes after the public notice period ends. The permittee may not implement a proposed change until ODA has approved it. The following types of changes to an AWMP are considered substantial:
    - (i) A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.
    - (ii) An increase in maximum allowed animal numbers such that the operation becomes defined as a *large concentrated animal feeding operation*.
  - (b) *Non-substantial changes.* Public notice of non-substantial changes (described below) to an AWMP is not required; however, the permittee must submit its proposal to make such a change to ODA for approval at least 45 days in advance of the proposed change unless a different timeframe is allowed by ODA. ODA will notify the permittee of its final decision concerning the proposed change after reviewing the proposal. The permittee may not implement a proposed change until ODA has approved it. The following changes to an AWMP are considered non-substantial provided they do not result in a substantial modification listed in paragraph (a) above:

- (i) An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers provided the increase does not change the operation into a large concentrated animal feeding operation.
  - (ii) When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process waste water beyond the scope of the current AWMP.
2. Requirements for small, medium, or large concentrated animal feeding operations (see Table 3, p. 15, for an overview)
- (a) *Substantial changes.* The permittee must submit any proposal to make substantial changes to its AWMP to ODA for approval at least 60 days in advance of the proposed changes. ODA will public notice the proposal as described in S1.H, p. 7. ODA will notify the permittee of its final decision concerning the proposed changes after the public notice period ends. The permittee may not implement a proposed change until ODA has approved it. The following types of changes to an AWMP are considered substantial:
    - (i) Addition of new land application areas not previously included in the AWMP, unless the land application area is covered by an existing AWMP that has already been incorporated into an existing NPDES permit and the application of manure, litter, or process waste water on the newly added land application area is in accordance with that existing NPDES permit.
    - (ii) Any changes to the field-specific maximum annual rates for land application.
    - (iii) Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop.
    - (iv) Addition of any crop or other uses not included in the AWMP and corresponding field-specific rates of application.
    - (v) A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.
    - (vi) Any changes that are likely to increase the risk of nitrogen and phosphorus transport to surface waters or groundwaters.
  - (b) *Non-substantial changes.* Public notice of non-substantial changes (described below) to an AWMP is not required; however, the permittee must submit its proposal to make such a change to ODA for approval at least 60 days in advance of the proposed change unless a different timeframe is allowed by ODA. ODA will notify the permittee of its final decision concerning the proposed change after reviewing the proposal. The permittee may not implement a proposed change until ODA has approved it. The following changes to an AWMP are considered non-substantial provided they do not result in a substantial modification listed in paragraph (a) above:
    - (i) An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers.
    - (ii) When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process waste water beyond the scope of the current AWMP.

**Table 3: Overview of Requirements for Proposed Changes to AWMPs**

|   | SMALL OR MEDIUM CONFINED   |   | SMALL, MEDIUM, OR LARGE CONCENTRATED  |   |
|---|--|---|---|---|
|   | <i>Substantial Change</i>  | <i>Non-Substantial Change</i>   | <i>Substantial Change</i>   | <i>Non-Substantial Change</i>   |
| <b>Description of proposed change</b>     | <ol style="list-style-type: none"> <li>1. A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.</li> <li>2. An increase in maximum allowed animal numbers such that the operation becomes defined as a large concentrated animal feeding operation.</li> </ol> | <p>The following are considered non-substantial provided they do not result in a substantial change:</p> <ol style="list-style-type: none"> <li>1. An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers.</li> <li>2. When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process waste water beyond the scope of the current AWMP.</li> </ol> | <ol style="list-style-type: none"> <li>1. Addition of new land application areas not previously included in the AWMP, unless the land application area is covered by an existing AWMP that has already been incorporated into an existing NPDES permit and the application of manure, litter, or process waste water on the newly added land application area is in accordance with that existing NPDES permit.</li> <li>2. Any changes to the field-specific maximum annual rates for land application.</li> <li>3. Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop.</li> <li>4. Addition of any crop or other uses not included in the AWMP and corresponding field-specific rates of application.</li> <li>5. A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.</li> <li>6. Any changes that are likely to increase the risk of nitrogen and phosphorus transport to surface waters or groundwaters.</li> </ol> | <p>The following are considered non-substantial provided they do not result in a substantial change:</p> <ol style="list-style-type: none"> <li>1. An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers.</li> <li>2. When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process waste water beyond the scope of the current AWMP.</li> </ol> |
| <b>Timeline to submit proposal to ODA</b> | Submit at least 45 days in advance of proposed change(s).  | Submit at least 45 days in advance of proposed change(s) unless a different timeframe allowed by ODA.   | Submit at least 60 days in advance of proposed change(s).   | Submit at least 60 days in advance of proposed change(s) unless a different timeframe is allowed by ODA.  |
| <b>Public notice process</b>              | ODA will public notice as described in S1.H, p. 7.   | Not required.   | ODA will public notice as described in S1.H, p. 7.  | Not required.   |
| <b>ODA approval</b>                       | ODA will notify the permittee of its final decision concerning the proposed change(s) after the public notice period ends.   | ODA will notify the permittee of its final decision concerning the proposed change(s) after reviewing the proposal.   | ODA will notify the permittee of its final decision concerning the proposed change(s) after the public notice period ends.  | ODA will notify the permittee of its final decision concerning the proposed change(s) after reviewing the proposal.   |

## S4. MONITORING, INSPECTION, RECORDKEEPING, AND REPORTING REQUIREMENTS

### S4.A. Monitoring Requirements

#### 1. Discharge Monitoring

If a discharge to surface water or groundwater occurs that is not allowed by S2.B or S2.C, p. 9, the permittee must record the following information:

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

#### 2. Analytical Monitoring

The permittee must conduct the following sampling and analysis according to the following schedule:

##### (a) *Large concentrated animal feeding operations only*

| Sample Type                                      | Analytical Parameter                        | Minimum Frequency   | Sample Method  |
|--|---|---|--|
| Manure, litter, and process waste water          | (i) Total nitrogen<br>(ii) Total phosphorus | Annually  | Sample according to guidance contained in NRCS 590 or 633 practice standard.                   |
| Exported manure, litter, and process waste water | (i) Total nitrogen<br>(ii) Total phosphorus | Annually  | Sample according to guidance contained in NRCS 590 or 633 practice standard.                   |
| Soil from land application area(s)               | (i) Total nitrogen<br>(ii) Total phosphorus | Once every 5 years from all fields where manure, litter, or process waste water is applied. | Sample according to guidance contained in PNW 570-E, EM 8832-E, or NRCS 590 practice standard. |

##### (b) All other operations

| Sample Type                        | Analytical Parameter                        | Minimum Frequency   | Sample Method  |
|------------------------------------|---|---|--|
| Soil from land application area(s) | (i) Total nitrogen<br>(ii) Total phosphorus | Once every 5 years from all fields where manure, litter, or process waste water is applied. | Sample according to guidance contained in PNW 570-E, EM 8832-E, or NRCS 590 practice standard. |

Note: In the event of any inconsistency between the monitoring requirements of this permit and NRCS 590, the monitoring requirements of this permit apply. The permittee should be aware that NRCS 590 monitoring frequencies may need to be followed to access or maintain federal funds.

**S4.B. Inspection Requirements**

1. The permittee must conduct the following inspections:

| Item  | Large Concentrated  | Other Operations                      |
|---|---|---------------------------------------|
| (a) Storm water diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to waste water and manure storage and containment structures | Weekly and record results   | Periodically                          |
| (b) Water lines, including drinking water or cooling water lines  | Daily and record results  | Periodically                          |
| (c) Equipment used for land application of manure, litter, or process waste water   | Daily when equipment is in use and record results   | Periodically when equipment is in use |
| (d) Liquid impoundments for manure and process waste water  | Weekly and record depth of manure and process waste water according to depth marker required by S2.E.3, p. 10 | Periodically                          |

2. Any deficiencies found as a result of these inspections must be corrected as soon as possible. The permittee with a *large concentrated animal feeding operation* must record any actions taken to correct these deficiencies and, if deficiencies are not corrected within 30 days, provide an explanation of the factors preventing immediate correction.

**S4.C. Recordkeeping and Availability Requirements**

1. The permittee must maintain all information required by this permit at the facility for at least five (5) years and make this information available to ODA upon request.
2. Upon obtaining permit coverage, the permittee must record the following information: (Note: If any of the following information is provided in the permittee's AWMP, a separate recordkeeping effort is not required.)

| Item or Parameter   | Large Concentrated   | Other Operations |
|---|--|------------------|
| (a) Date, amount, and nutrient loading of manure, litter, or process waste water applied to each field.   | Required   | Required         |
| (b) Weather conditions at the time of application and 24 hours before and after application.  | Required   | Not required     |
| (c) Total amount of nitrogen and phosphorus actually applied annually to each field, including documentation of calculations of the total amount applied. | Required   | Required         |
| (d) Total amount of manure or waste water transferred or exported to other persons.   | Required. Also include:<br>(i) Date and amount of each transfer or export<br>(ii) Name and address of each recipient<br>(iii) Copy of the manure nutrient analysis conducted provided to the recipient [see S2.K.3, p. 11] | Required         |
| (e) Description of actions taken to correct deficiencies discovered during inspections.   | Required (see S4.B.2, p. 17)   | Not required     |

**S4.D. Reporting Requirements**1. 24-hour Reporting

- (a) If a discharge to surface water or groundwater occurs that is not allowed by S2.B and S2.C, p. 9, the permittee must notify ODA within 24 hours of the discharge. The permittee must submit a written report within five (5) days to ODA. The information to be submitted is listed in the monitoring requirements (see S4.A, p. 16) of this permit.
- (b) The permittee must notify ODA within 24 hours of becoming aware of any significant physical failure at any time of a waste water control facility required under this permit.
- (c) The permittee must notify ODA within 24 hours of any permit noncompliance that may endanger health or the environment as described in G2.6, p. 20.

2. Annual Report

- (a) The permittee must submit an annual report to ODA by March 15 of each year. The annual report must include the following for the previous calendar year:
  - (i) Maximum number and type of animals approved by ODA in the permittee's *Notice of Registration*, whether in open confinement or housed under roof (e.g., beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other).
  - (ii) Actual number of animals by type at the CAFO averaged over the year.
  - (iii) Estimated amount of total manure, bedding, litter, process waste water, and other material that comes in contact with manure generated by the CAFO (tons, gallons, cubic feet, or cubic yards).
  - (iv) Estimated amount of total manure, bedding, litter, process waste water, and other material that comes in contact with manure transferred to other persons by the permittee (tons, gallons, cubic feet, or cubic yards).
  - (v) Estimated amount of manure, bedding, litter, process waste water, and other material that comes in contact with manure applied to land by the permittee (tons, gallons, cubic feet, or cubic yards).
  - (vi) Total number of acres for land application covered by the AWMP developed in accordance with the terms of this permit.
  - (vii) Total number of acres under control of the permittee that were used for land application of manure, litter, and process waste water.
  - (viii) Summary of all manure, litter, and process waste water discharges from the production area that have occurred, including date, time and approximate volume.
  - (ix) A statement indicating whether the AWMP was developed or approved by a certified waste management planner.
  - (x) As required by 40 CFR §122.42(e)(4)(viii), the *concentrated animal feeding operation* that discharges or proposes to discharge to waters of the U.S. must also report the following:
    - (1) Actual crop(s) planted and actual yield(s) for each field.
    - (2) Actual nitrogen and phosphorus content of the manure, litter, and process waste water.
    - (3) Data used and results of calculations based on protocol in the ODA-approved AWMP.
    - (4) Amount of manure, litter, and process waste water applied to each field during the previous 12 months.
    - (5) Results of soil testing for nitrogen and phosphorus if testing was performed.
    - (6) Amount of any supplemental fertilizer applied.
- (b) The annual report must be signed and certified by the permittee or permittee's authorized representative with the following statement: "*I certify, under penalty of law, that this document and all attachments were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.*"

**S4.E. Additional Monitoring**

1. ODA may establish specific monitoring requirements in addition to those contained in this permit by administrative order. An administrative order is an agency action expressed in writing directed to a named person or named persons ([ORS 183.310](#)).
  
2. If a permittee experiences two or more discharges within a 24-month period that are not associated with a 25-year, 24-hour or greater rainfall event, ODA may require surface water and/or groundwater quality monitoring or transfer the permittee to an individual permit. Monitoring for the following parameters may be required: bacteria, total suspended solids, total Kjeldahl nitrogen, biochemical oxygen demand, and other nutrient indicators. If ODA waives the additional monitoring requirements because such monitoring would be impracticable or not likely to produce useful information, ODA will set out the basis for the decision in writing and make the decision available to interested parties.

## GENERAL CONDITIONS

### G1. Noncompliance reporting requirements

1. If for any reason, the permittee does not comply with, or will be unable to comply with any of the requirements or conditions specified in the permit, the permittee must, at a minimum, provide ODA with the following information:
  - (a) A description of the nature and cause of noncompliance, including the quantity and quality of any unauthorized waste discharges;
  - (b) The period of noncompliance, including exact dates and times, and the anticipated time when the permittee will return to compliance; and
  - (c) The steps taken, or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.
2. In addition, the permittee must take immediate action to stop, contain, and clean up any unauthorized discharges and take all reasonable steps to minimize any adverse impacts to waters of the state and correct the problem. The permittee must notify ODA by telephone so that an investigation may be made to evaluate any resulting impacts and the corrective actions taken to determine if additional action should be taken.
3. Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or resulting liability for failure to comply.

### G2. Additional reporting requirements [40 CFR §122.41(l)]

1. *Planned changes.* The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or
  - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).
  - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
2. *Anticipated noncompliance.* The permittee shall give advance notice to the director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. *Transfers.* This permit is not transferable to any person except after notice to the director. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See §122.61; in some cases, modification or revocation and reissuance is mandatory.)
4. *Monitoring reports.* Monitoring results must be reported at the intervals specified elsewhere in this permit.
  - (a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the director for reporting results of monitoring of sludge use or disposal practices.
  - (b) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the director.
  - (c) Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified by the director in the permit.
5. *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.
6. *Twenty-four hour reporting.*
  - (a) The permittee shall report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not

- been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- (b) The following must be included as information which must be reported within 24 hours under this paragraph.
    - (i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g) or G16, p. 23.)
    - (ii) Any upset which exceeds any effluent limitation in the permit. (See §122.41(n) or G17, p. 24.)
    - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the director in the permit to be reported within 24 hours. (See §122.44(g).)
  - (c) The director may waive the written report on a case-by-case basis for reports under G2.6(b) of this section if the oral report has been received within 24 hours.
7. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under G2.4, 5, and 6 of this section, at the time monitoring reports are submitted. The reports must contain the information listed in G2.6 of this section.
8. *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

### **G3. Duty to comply [40 CFR §122.41(a)]**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

1. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
2. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
3. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000.

Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

**G4. Compliance with other laws and statutes**

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

**G5. Property rights [40 CFR §122.41(g)]**

This permit does not convey any property rights of any sort, or any exclusive privilege.

**G6. Duty to reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new or renewal permit. The application must be submitted at least 180 days before the expiration date of this permit. The director may grant permission in writing to submit an application less than 180 days in advance but no later than the permit expiration date.

**G7. Need to halt or reduce activity not a defense [40 CFR §122.41(c)]**

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

**G8. Duty to mitigate [40 CFR §122.41(d)]**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**G9. Proper operation and maintenance [40 CFR §122.41(e)]**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**G10. Permit actions**

1. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. [40 CFR §122.41(f)]
2. After notice, registration under this permit may be modified or revoked as it applies to any person for cause as follows:
  - (a) Violation of any terms or conditions of the permit,
  - (b) Failure of the permittee to disclose fully all relevant facts, or misrepresentations of any relevant facts by the permittee during the permit issuance process and during the life of the permit;
  - (c) Failure to pay permit fees required by Oregon Administrative Rule when due;
  - (d) Information indicating that the permitted operation poses a threat to human health or welfare;
  - (e) A change in ownership or control of the operation, or
  - (f) Other causes listed in 40 CFR §122.62 and 122.63.
3. Modification or revocation of coverage under this permit as it applies to any person may be initiated by ODA.
4. Issuance of coverage under an individual permit may be initiated by ODA in accordance with S1.F Individual Permit Coverage, p. 7.

**G11. Change of ownership or control**

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

**G12. Duty to provide information [40 CFR §122.41(h)]**

The permittee shall furnish to the director, within a reasonable time, any information which the director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine

compliance with this permit. The permittee shall also furnish to the director upon request, copies of records required to be kept by this permit.

**G13. Inspection and entry [40 CFR §122.41(i)]**

The permittee shall allow the director or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, 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 permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or state law, any substances or parameters at any location.

**G14. Monitoring and records [40 CFR §122.41(j)]**

1. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which must be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the director at any time.
3. Records of monitoring information must include:
  - (a) The date, exact place, and time of sampling or measurements;
  - (b) The individual(s) who performed the sampling or measurements;
  - (c) The date(s) analyses were performed;
  - (d) The individual(s) who performed the analyses;
  - (e) The analytical techniques or methods used; and
  - (f) The results of such analyses.
4. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O.
5. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**G15. Signatory requirement [40 CFR §122.21(k)]**

1. All applications, reports, or information submitted to the director shall be signed and certified. (See §122.22)
2. The CWA provides that any person who 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 non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**G16. Bypass [40 CFR §122.41(m)]**

1. *Definitions.*
  - (a) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
  - (b) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of G16.3 and 4 of this section.
3. *Notice*
  - (a) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
  - (b) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in G2.6 of this section (24-hour notice).
4. *Prohibition of bypass.*
  - (a) Bypass is prohibited, and the director may take enforcement action against a permittee for bypass, unless:
    - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (iii) The permittee submitted notices as required under G16.3 of this section.
  - (b) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed above in G16.4(a) of this section.

**G17. Upset [40 CFR §122.41(n)]**

1. *Definition.* *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of G17.3 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
3. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (b) The permitted facility was at the time being properly operated; and
  - (c) The permittee submitted notice of the upset as required in G2.6(b)(ii) of this section (24 hour notice).
  - (d) The permittee complied with any remedial measures required under G8 of this section.
4. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.