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Finalized Mar. 31, 2016



**Oregon**  
Department  
of Agriculture

State of Oregon  
Confined Animal Feeding Operation  
Permit Program



CAFO NPDES General Permit #01

and

Evaluation Report and Fact Sheet

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**State of Oregon  
CAFO NPDES General Permit #01  
Evaluation Report and Fact Sheet**

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## **1 Overview**

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### **1.1 Proposed and final permit actions**

The Oregon Department of Agriculture (ODA) and Department of Environmental Quality (DEQ) proposed on April 2, 2014 to renew National Pollutant Discharge Elimination System (NPDES) General Permit #01 for confined animal feeding operations (CAFOs). Following the end of the public comment period on May 30, 2014 and after addressing public comment, ODA and DEQ modified the proposed permit. ODA and DEQ provided notice for public comment on modified permit conditions, which are summarized in Table 2 Summary of modifications to NPDES General Permit #01. These modifications have not changed and are part of the final permit. A few additional typographical errors were found and corrected. Section 7 contains more information about the public comment period and response to comments.

The NPDES General Permit #01 regulates CAFOs that discharge to surface waters of the state. This NPDES general permit will expire within five years of permit issuance. CAFOs that do not discharge to surface waters of the state may still voluntarily elect coverage under this permit.

This general permit affects approximately 520 CAFOs that are currently registered to the 2009 version of the NPDES general permit, future CAFOs desiring general permit coverage, and interested parties potentially affected by CAFO operations.

### **1.2 What kinds of CAFOs are covered by these general permits?**

Table 1 p. 2, lists the categories of CAFOs that are covered by the NPDES general permit. Briefly, the permit covers the following:

- Any CAFO that discharges to surface waters of the state. This includes concentrated animal feeding operations defined at 40 CFR § 122.23 that discharge to waters of the U.S.

Note: Oregon's NPDES permit program is based on the state definition of surface "waters of the state," which is somewhat different than the definition of waters of the U.S. (or navigable waters) used in the federal Clean Water Act and EPA's NPDES permit regulations. In Oregon, the practical difference is quite small because the federal definition applies to all tributaries of navigable rivers and to all waters with a substantial hydrological connection to navigable rivers or tributaries of such rivers. There may be some waters in Oregon that are covered by the state definition that are not tributaries of navigable waters or do not have any hydrological connection to tributaries of rivers (for example, streams that discharge to isolated lakes in Eastern Oregon); however, EPA approved Oregon's NPDES permit program including the definition of waters of the state and Oregon is authorized to extend our NPDES program to those rare instances where a CAFO discharges to surface waters of the state that are not waters of the U.S.

- Any CAFO designated by the Director. A determination will be made after an on-site visit and consideration is given to:
  - The size of the animal feeding operation and the amount of wastes reaching surface waters;

- The location of the animal feeding operation relative to waters of the United States;
  - The means of conveyance of animal wastes and process wastewaters into waters of the United States;
  - The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes, manure and process wastewaters into waters of the United States;
  - Other relevant factors to determine whether a animal feeding operation is a significant contributor of pollutants per 40 CFR Part 122.23(c).
- Any CAFO that is not required to obtain NPDES permit coverage may elect to be voluntarily covered by this NPDES permit as discussed further below.

### 1.3 Election of permit coverage

Any person who owns or operates a CAFO that is not required to obtain NPDES permit coverage may voluntarily elect to be covered by this permit. Any person making such an election is generally subject to all of the terms and conditions of the applicable permit unless the permit specifies otherwise. ODA will label permit registrants electing coverage as such to distinguish them from permit registrants required to have permit coverage (for example, “elective medium CAFO”).

**Table 1: Classification of CAFOs that require coverage by NPDES General Permit #01**

| Type of CAFO discharging to surface waters of the state        | Small                   | Medium                  | Large                   |
|--|-------------------------|-------------------------|-------------------------|
| mature dairy cows <sup>1</sup>                                 | <200                    | 200-699                 | ≥700                    |
| veal calves  | <300                    | 300-999                 | ≥1,000                  |
| cattle <sup>2</sup>  | <300                    | 300-999                 | ≥1,000                  |
| swine ≥ 55 lbs   | <750                    | 750-2,499               | ≥2,500                  |
| swine < 55 lbs   | <3,000                  | 3,000-9,999             | ≥10,000                 |
| horses   | <150                    | 150-499                 | ≥500                    |
| sheep or lambs   | <3,000                  | 3,000-9,999             | ≥10,000                 |
| turkeys  | <16,500                 | 16,500-54,999           | ≥55,000                 |
| chickens, including laying hens or broilers w/wet waste system | <9,000                  | 9,000-29,999            | ≥30,000                 |
| laying hens w/dry waste system                                 | <25,000                 | 25,000-81,999           | ≥82,000                 |
| broiler chickens w/dry waste system                            | <37,500                 | 37,500-124,999          | ≥125,000                |
| ducks w/other than wet waste system                            | <10,000                 | 10,000-29,999           | ≥30,000                 |
| ducks w/wet waste system                                       | <1,500                  | 1,500-4,999             | ≥5,000                  |
| other animal type <sup>3</sup>                                 | Designated by director. | Designated by director. | Designated by director. |

<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.

### 1.4 Summary of Modifications to NPDES General Permit #01 following end of public comment of May 30, 2014

The following table provides a summary of the modifications to the NPDES General Permit #01 and where to find additional information on the proposed modifications. The permit modifications also include minor corrections and clarifications.

**Table 2: Summary of modifications to NPDES General Permit #01**

| <b>Reference</b>  | <b>Modification</b>   |
|---|---|
| Definitions   | Modifications in the definition section provide clarity. Definitions of “agent,” “dry weather discharge” and “quantitation limits” are added. Separate definitions are provided for the terms “dry waste treatment works” and “wet waste treatment works.”  |
| <b>S1. Permit Coverage</b> (Section 6.3, p.10)  |   |
| S1.C.2 and 3  | Modifications to these conditions provide more detail and clarifies that a renewal application includes an animal waste management plan (AWMP).   |
| S1.E.3  | The effect of NPDES permit compliance is in Oregon Administrative Rule 340-045-0080 and reference to this OAR is removed as a permit condition.   |
| <b>S2. Discharge Limitations and Operating Requirements</b> (Section 6.4, p. 13)                  |   |
| S2.A.1 and S2.B.3   | A requirement for a discharge to meet water quality standards is replaced with effluent limits of zero for Nitrate plus Nitrite Nitrogen, Phosphorous and bacteria. Parameters for compliance with the effluent limits are included. Reference to general condition G14 and G15 is removed.                               |
| S2.B.5 and S2.C.5   | A requirement is added to clarify that ODA will let a permit registrant know if additional limits or controls are needed to be consistent with an EPA-approved or issued TMDL wasteload allocation.   |
| S2.J.2  | The phrase “if approved by ODA” for this technology-based setback requirement is removed.   |
| S2.L.   | Clarifies chemicals and wastes must be handled to prevent improper disposal.  |
| <b>S3. Animal Waste Management Plan</b> (Section 6.5, p. 17)                                      |   |
| S3.A.3 and S3.C.2   | These conditions are removed.   |
| S3.B.2.   | Refers to S1.C. for requirements on an application for permit coverage.   |
| <b>S4. Monitoring, Inspection, Recordkeeping, and Reporting Requirements</b> (Section 6.6, p. 19) |   |
| S4.A.2. and 3   | Clarifications and additions are included in this monitoring section. Nitrate-nitrogen is added to the list of analytes for a soil sample for large CAFOs. A requirement for large CAFOs to soil sample a minimum of 20% of the fields or management units annually is added. Effluent sampling is added as a requirement |
| S4.B.1.   | The term “periodically” is replaced by ‘ at least once every six months.  |
| S4. A.1.(e) and (g)   | Information reported to ODA on a discharge includes whether or not a grab sample was taken of the discharge and confirmation that Oregon Emergency Response System was notified of a discharge that may encounter a drinking water system intake.   |
| S4.D.1(d)   | A requirement includes notification to Oregon Emergency Response System if a discharge may encounter a drinking water system intake.  |
| S4.D.2  | Effluent monitoring results are required to be reported.  |
| <b>General Conditions</b> (Section 6.7, p. 22)  |   |
| G.10  | An authorized representative is an agency authorized representative.  |

Corrections were made to include a couple of page references and a reference to a permit condition was corrected in S2.K.2.

### 1.5 NPDES general permit

The following table provides a short summary of NPDES General Permit #01 basic requirements.

**Table 3: Summary of NPDES General Permits requirements**

| NPDES General Permit #01   |  |
|--|--|
| <b>Permit Coverage</b>   | <p><u>Required Coverage</u><br/>           CAFOs that discharge to surface waters. For more detail, see Table 1: Classification of CAFOs that require coverage , p. 2 (or Table 1 in the permit).</p> <p><u>Elective Coverage</u><br/>           CAFOs that do not discharge to surface waters may elect coverage under this permit.</p>   |
| <b>Application to Register ATR</b>                                       | An application to register for permit coverage must include an animal waste management plan, land use compatibility statement and fees. New or updated animal waste management plans are required to be submitted with the application. An animal waste management plan that is on file with Oregon Department of Agriculture can be used to fulfill renewal application requirements, as long as an applicant certifies on the application form that AWMP on file reflects current operations. ODA will review an AWMP prior to assignment to the permit. |
| <b>Public Notice for application</b>                                     | All new and renewal applications are subject to public notice requirements.  |
| <b>Discharge Limitations and Operating Requirements</b>                  | Discharge to surface waters only allowed in limited circumstances. A discharge must meet effluent limits for Nitrate plus Nitrite Nitrogen, Phosphorous and bacteria.  |
| <b>Animal Waste Management Plan</b>                                      | Public notice of “substantial” AWMP updates or changes is required.  |
| <b>Monitoring, Inspection, Recordkeeping, and Reporting Requirements</b> | Monitoring, inspection, recordkeeping, and recordkeeping requirements differ based on the size of a CAFO. 24-hour reporting of a discharge is a requirement for all CAFOs.   |
| <b>General Conditions</b>  | General NPDES conditions required by 40 CFR § 122.41 and § 122.42.   |

### 1.6 Authority for general permits

DEQ is authorized by Oregon Administrative Rule (OAR) 340-045-0033(2) and 40 CFR 122.28 to issue *general* permits when the following conditions are met:

- There are several minor sources of activities that involve the same or substantially similar types of operations.
- The sources or activities have the potential to discharge or dispose of the same or similar types of waste.
- The general permit requires the same or similar monitoring requirements, effluent limitations, and operating conditions for the categories.
- The category of sources or activities would be more appropriately controlled under a general permit than an individual permit.

The use of a general permit for regulating Oregon CAFOs is appropriate because the waste characteristics from different CAFOs and the management practices to control these wastes are similar. Oregon regulates confined animal feeding operations (confined AFOs), which

includes those operations that fall under federal NPDES permitting program for concentrated AFOs as well another group of animal feeding operations that are exempt from permitting requirements under the CWA.

Oregon's CAFO program is jointly administered by DEQ and ODA. DEQ has legal responsibility for administering the NPDES permit program for animal feeding operations and is actively involved and responsible for CWA compliance. The Legislature also established responsibilities for ODA; ODA exercises its authority as an agent of DEQ through a legislatively authorized agreement with the Environmental Quality Commission. The terms "Director" and "Agency" as defined in the permit refer to both the Oregon Department of Environmental Quality (DEQ) and the Oregon Department of Agriculture (ODA).

### **1.7 When is an individual permit necessary?**

The majority of CAFOs in Oregon will be sufficiently regulated under either NPDES General Permit #01 or WPCF General Permit #01. ODA or DEQ director, however, may decide that a particular operation must obtain an individual permit. Any owner or operator of a CAFO with coverage under this NPDES General Permit #01 may also request issuance of an individual permit. Pursuant to OAR 340-045-0033(10) and S4.E on page 20 of the permit, situations when an individual permit may be required include:

- The discharge or activity is a significant contributor of pollution or creates other environmental problems.
- The operator is not in compliance with the terms and conditions of the general permit, submitted false information or is in violation of any applicable law.
- A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants being discharged.
- New effluent limitation guidelines are promulgated for point sources covered by this general permit and the guidelines are not already in the permit.
- Circumstances have changed so that the discharge or activity is no longer appropriately controlled under a general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
- Any other relevant factors. For example, the CAFO operator proposes a new or unproven treatment or utilization technology that ODA believes should be initially regulated by an individual permit to demonstrate that the technology will work.

### **1.8 Permitting options in designated groundwater management areas**

Permitting options for CAFOs in groundwater management areas will be evaluated on a case-by-case basis. ODA expects that a majority of these operations will be adequately regulated by either the NPDES or WPCF general permit. In situations where a CAFO might affect groundwater quality, additional monitoring requirements or management practices may be required by ODA as allowed by the general permits (see permit condition S4. E Additional Monitoring in either permit) or an individual permit may be required by ODA.

More information on groundwater management areas can be found at the following web pages <http://www.deq.state.or.us/wq/groundwater/gwmas.htm> and <http://www.deq.state.or.us/wq/groundwater/gwmas.htm>

## 2 CAFO Activities and Pollutants

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### 2.1 Regulated Activities

The NPDES general permit regulates management of manure, litter, and process wastewater from CAFO activities. CAFO activities include the confinement of animals for meat, milk, or egg production and the stabling of animals in pens, barns, or houses where the animals are fed or maintained at the place of confinement. Generally, animals are in confined areas along with their feed and manure. Process wastewater and wastes may include but are not limited to:

- Spillage or overflow from animal watering systems that comes into contact with manure, litter or bedding.
- Water from washing, cleaning, or flushing of pens, barns, manure pits, or other CAFO facilities.
- Water from direct contact washing or spray cooling of animals.
- Water from dust control.
- Washing and cleaning of milking systems and waste milk.
- Washing and cleaning of cheese making systems.
- Washing and cleaning of eggs and egg sorting and packaging equipment.
- Any water that comes into contact with raw materials, products, or byproducts including but not limited to manure, litter, feed, milk, or bedding.

### 2.2 Potential Pollutants from CAFO Activities

The most common pollutants found in manure, litter, and process wastewater from CAFOs include biochemical oxygen demand (BOD), total suspended solids (TSS), nutrients (nitrogen and phosphorous compounds), and bacteria. While CAFO manure, litter, and process wastewater may be used beneficially as fertilizer, the pollutants can be harmful to groundwater and surface water if there is an application on crops in excess of recommended agronomic rates, a discharge directly to groundwater and surface water in the event of a spill, or an application near wells or stormwater drainage ditches.

BOD is an aggregate measure of carbon compounds that can deplete dissolved oxygen in water. Excessive BOD uses dissolved oxygen that would normally be needed to support aquatic life. Nutrients exert a demand for oxygen when the nutrients break down. Nutrients also can increase algae and aquatic plant growth and the decomposition of algae and aquatic plant growth can deplete dissolved oxygen levels. The lowering of dissolved oxygen levels in streams and lakes can cause fish kills. Other forms of nitrogen can also have direct negative effects: ammonia at high levels in surface water can be toxic to fish and high nitrate levels in drinking water can have harmful effects on humans. Bacteria, viruses, and parasites found in animal waste can increase the risk of waterborne diseases in livestock, wildlife and humans. Fecal coliform and *E. coli* are types of bacteria that are commonly used as biological indicators to assess whether there is a threat to public health or beneficial uses of a water body (recreational, industrial, domestic drinking water supply, or agricultural uses).

### 2.3 Estimate of CAFO Manure, Litter, and Process Wastewater

As of January 2014, 524 animal operations are registered to CAFO NPDES General Permit #01-2009. They include 316 dairy and dairy heifer, 38 poultry, 112 beef, and 58 other operations. ODA estimates that these CAFOs collectively generate approximately 10 million tons of waste on a yearly basis. ODA anticipates that many CAFOs currently registered to NPDES General Permit #01-2009 will maintain their coverage under a NPDES permit. The renewal of NPDES General

Permit #01 is not expected to significantly alter the number of CAFOs currently in existence or the amount of waste generated by these CAFOs.

### **3 Applicability of Antidegradation Policy and TMDLs**

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#### **3.1 Antidegradation policy review**

For surface waters of the state, the antidegradation policy in OAR 340-041-0004 is in place to protect existing water quality when existing water quality meets or exceeds standards and to restore water quality limited water. Antidegradation requires the protection and maintenance of existing uses and the level of water quality necessary to protect those uses and limits when new or increased pollutants may be allowed.

DEQ has determined that renewal of NPDES General Permit #01 is consistent with the antidegradation policy and will not degrade existing water quality because: 1) the permit prohibits discharge and contains a numeric effluent limit of zero for nitrate plus nitrite nitrogen, phosphorous and bacteria, 2) discharge is prohibited and therefore will not contribute to a violation of state water quality standards or further degrade impaired water, 3) there is no on-going discharge allowed by the permit and 4) the permit is protective of water quality limited water by implementing wasteload allocations in impaired waters with an EPA-approved or issued TMDL.

Out of more than 500 CAFOs registered under an NPDES permit, four CAFOs were fined in 2013 for a discharge. In 2014, ODA completed 707 site inspections of both permitted and non-permitted CAFOs and issued 31 notices of noncompliance. Three notices were for unauthorized discharges.

DEQ has determined that this permit is consistent with OAR 340-040-0020 for control of groundwater discharges because: the land application of wastes must be managed at agronomic rates; waste management activities must be consistent with an AWMP that is a part of this permit, and the permit prohibits discharge to groundwater in violation of state groundwater quality protection standards.

#### **3.2 Antidegradation policy: Special policies and guidelines (OAR 340-041-0350)**

To preserve or improve the existing high quality water for municipal water supplies, recreation and preservation of aquatic life in the Clackamas River, McKenzie River (above Hayden Bridge) and North Santiam River subbasins, OAR 340-041-0350 (*The Three Basin Rule*) prohibits new or increased waste discharges in these subbasins.

The NPDES General Permit #01 prohibits discharges and must meet effluent limit guidelines for a 25-year, 24-hour storm event. OAR 340-041-0350(5) allows renewal of permits within these three basins provided there is no increase in discharge load. Since the NPDES General Permit #01 requires that wastes be applied on land at agronomic rates and discharge is essentially prohibited, there will be no environmentally significant increase in discharge load. New CAFOs also will be allowed to register under NPDES General Permit #01 provided that their waste loads are applied on land at agronomic rates. Application on land at agronomic rates is not considered an increase in wasteload pursuant to OAR 340-041-0350(5)(c).

#### **3.3 Total Maximum Daily Loads (TMDLs)**

OAR 340-045-0035(3) requires DEQ to explain: 1) if the proposed issuance of a new NPDES permit or NPDES permit renewal will allow the discharge of pollutants that could affect parameters for which a water body may be water quality limited under Section 303(d)(1) of the Clean Water

Act, and 2) if the permit does allow such discharge, how DEQ can allow it.

As explained below, the NPDES General Permit #01 does not allow pollutant discharges to surface waters; as a result, waters with and without a TMDL will be protected.

The CAFOs covered by NPDES General Permit #01 have the *potential* to discharge a variety of pollutants (see section 2.2, p. 6) to receiving streams throughout the state. Many of these streams are listed as water quality limited for dissolved oxygen, temperature, and bacteria.

However, NPDES General Permit #01 continues to prohibit any discharge to surface waters from production areas and land application areas. Discharges may only occur from a facility if that facility has been properly, designed, constructed, operated, and maintained to contain all process-generated wastewater plus the runoff from a 25-year, 24-hour rainfall event.

Water bodies designated as water quality limited on Oregon's EPA approved 303(d) list are evaluated using a comprehensive approach that identifies potential sources of the impairment pollutant entering a water body. TMDLs developed for water bodies that are impaired describe the amount of each pollutant a waterway can receive and meet water quality standards for designated and existing uses. A TMDL takes into account the pollution from all sources and may provide a wasteload allocation to a point source or group of point sources or prohibit discharge. NPDES permits covering point sources with a wasteload allocation under the TMDL may allow discharges of the pollutant under effluent limits developed to implement the allocation.

Impaired water on Oregon's EPA approved 303(d) list without a TMDL, will be protected because the permit is a no-discharge permit with effluent limits of zero for nitrate plus nitrite nitrogen, phosphorous and bacteria.

ODA will inform new and existing permit registrants if any additional limits or controls are necessary to be consistent with the wasteload allocation(s) in EPA-approved or issued TMDL(s) for NPDES permit coverage, or if coverage under an individual NPDES permit is necessary. If additional site-specific requirements are necessary, the registrant will be required to revise the AWMP to incorporate the requirements. ODA will provide a public review of an AWMP at the time of application or if a revision of an AWMP for a large CAFO is a substantial change.

As provided in the 2009 NPDES General Permit #01 and maintained in the renewal, permit coverage may be terminated if TMDLs are established that identify a CAFO's discharge during large rainfall events as a contributor to a stream that is water quality limited. In these situations, an individual permit or different general permit may be required that would include waste load allocations for the applicable CAFO(s).

## **4 Renewal Application Process**

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### **4.1 Renewal Application for NPDES General Permit #01**

Permit coverage is administratively extended for permit registrants with properly completed applications that were submitted before the May 31, 2014 expiration date of NPDES General Permit #01-2009. Permit registrants with administratively extended permit coverage continue to operate under the existing permit until they receive notification from ODA that they have been registered to the renewed permit.

The renewal application provided the opportunity for an existing NPDES permit registrant to apply for WPCF General Permit #01 coverage.

#### **4.2 ODA Public Notice of Renewal Applications for NPDES General Permit #01**

All renewal applications, which include AWMPs, are subject to public notice requirements described in permit condition S1.I, Table 2: Public Notice Requirements (see Table 4: NPDES General Permit #01 Public Notice Requirements, p. 12 of this document).

#### **4.3 Notification to applicant of permit coverage**

ODA will notify the applicant when permit coverage is approved or denied. See 5.3 Notification to applicant of permit coverage, p. 10 of this document for more detail.

## **5 New Application Process**

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### **5.1 New Applications: Application to Register (ATR)**

ODA will provide the *Application to Register (ATR)* form to new applicants. Applicants must provide the following information and certify that the information provided in the *ATR* is true, accurate, and complete:

- (a) Legal name and address of applicant and name of owner, if different.
- (b) Information about the corporate structure of the applicant and owner.
- (c) Facility information, including name, address, and latitude and longitude of production area or entrance to production area.
- (d) Identity of receiving streams.
- (e) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area.
- (f) Specific information about the number and type of animals, whether in open confinement and/or housed under roof (for example, 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).
- (g) The type of containment and storage (for example, anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons).
- (h) The total number and location of acres under control of the applicant available for land application of manure, litter, or process wastewater.
- (i) Estimated amount of manure, litter, and process wastewater generated per year.
- (j) Estimated amount of manure, litter, and process wastewater transferred to other persons per year (tons/gallons).
- (k) Status of animal waste management plan (AWMP).

### **5.2 ODA Public Notice of Renewal Applications for NPDES General Permit #01**

The NPDES general permit continues to require public notice prior to renewing permit coverage, Public notice requirements are the same as the previous version of this permit and described in permit condition S1.I, Table 2: Public Notice Requirements (see Table 4: NPDES General Permit #01 Public Notice Requirements, p. 12 of this document).

### 5.3 Notification to applicant of permit coverage

When NPDES general permit coverage is granted, ODA proposes to notify applicants in writing and include the following:

(a) *ODA Notice of Registration*

- Legal name of CAFO owner or operator, CAFO name, address, and contact information.
- Effective date of registration.
- Maximum number of animals the operation is permitted to allow at the facility based on the information provided in the *ATR* or renewal application.
- Regulatory status of the CAFO (for example, whether the CAFO is considered a large concentrated animal feeding operation).

(b) *Oregon CAFO General Permit Summary*

- A summary of permit terms and permit conditions to be used as a quick reference guide.

(c) Copy of the applicable general permit.

## 6 Discussion of NPDES General Permit #01

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### 6.1 Permit Outline

NPDES General Permit #01 is organized as follows:

- Face page (identifies the type of permit, statutory authority for permit issuance, issuance date, and expiration date)
- Table of contents
- Definitions
- Special Conditions 1 (S1): Permit Coverage
- Special Conditions 2 (S2): Discharge Limitations and Operating Requirements
- Special Conditions 3 (S3): Animal Waste Management Plan
- Special Conditions 4 (S4): Monitoring, Inspection, Recordkeeping, and Reporting Requirements
- General Conditions

### 6.2 Definitions

The terms “agency,” “dry weather discharge,” and “quantitation limits” are added for clarification. The terms “dry waste treatment works” and “wet waste treatment works” are now separate definitions in this section.

### 6.3 Special Conditions: S1. Permit Coverage

***S1.A When is a permit required and which CAFOs are covered by this permit?***

CAFOs that do not discharge to surface waters of the state are not required to apply for NPDES permit coverage. Either a NPDES general permit or individual NPDES permit is required for CAFOs discharging to surface waters. For more information, see Table 1: Classification of CAFOs that require coverage , p. 2. CAFOs not required to obtain NPDES permit coverage may still voluntarily elect coverage under the NPDES general permit.

***S1.B Can I elect coverage under this permit?***

The NPDES general permit continues to allow any person who owns or operates a CAFO that is not required to obtain NPDES general permit coverage to voluntarily elect coverage under this permit. It also specifies that such person would be subject to the terms and conditions of the permit unless and until permit coverage is terminated.

***S1.C How do I apply for permit coverage?***

The NPDES general permit requires applications to be submitted at least 180 days before permit coverage is needed or as specified by ODA in writing. Existing permit registrants wishing to renew permit coverage must submit an application to ODA by the date specified by ODA but no later than the expiration date of the current version of the general permit. ODA will notify the applicant in writing if permit coverage is approved or denied and permit coverage does not begin until this written notice is provided by ODA to the applicant. Condition S1.F, *How do I cancel permit coverage?*, states that coverage under the permit will be cancelled upon issuance of an individual permit.

***S1.D How do I transfer permit coverage to a new owner or operator?***

This condition informs the permit registrant that permit coverage may be transferred to a new owner or operator if an ODA transfer form is submitted to ODA 30 days before the transfer occurs or as specified by ODA. The form must be signed by the previous owner or operator as well as the new owner or operator.

***S1.E What activities are covered by this permit?***

The NPDES general permit continues to only cover discharges of pollutants resulting from processes, wastes, and operations identified in the ODA-approved AWMP. It does not cover disposal of human wastes or systems that mix human wastes.

Condition S1.E.3 provides clarification on agricultural stormwater. Pursuant to 40 CFR § 122.23(e), precipitation-related discharges that qualify as “agricultural stormwater” from land application areas are not subject to NPDES permit requirements. For discharges from land application areas to meet the definition of agricultural stormwater, manure, litter, and process wastewater must be applied in accordance with site specific practices listed in the ODA-approved AWMP that ensure appropriate agricultural utilization of nutrients.

The effect of NPDES permit compliance is already provided in OAR 340-045-0080 and is removed as a permit condition.

***S1.F How do I cancel permit coverage?***

This condition allows cancellation of NPDES general permit coverage if any of the following apply:

- Conditions or standards have changed so that the source or activity no longer qualifies for general permit coverage; *or* (“or” was added in the permit condition to indicate that either condition could qualify for permit cancellation).
- The facility no longer has animals on site and waste storage facilities have been properly repurposed or decommissioned. Requirements for cleaning and repurposing or decommissioning of waste storage and control facilities are specified.

In addition, the permit registrant must certify that it will not commence operations regulated by the general permit at the same location without making a new application for registration under the general permit or application for an individual permit.

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

ODA will respond to a written request for cancellation by conducting a site inspection and a review of the permit registrant’s file. ODA will also notify the permit registrant in writing of its determination to grant or deny the request with an explanation of why the request is denied.

**S1.G Will my information be kept confidential?**

This section provides the requirements in EPA's regulations and Oregon statutes relating to public requests for records relating to registrations under the permit. Under EPA's regulation, the name and address of an applicant or registrant, application and attachments to an application submitted to ODA, and discharge data cannot be kept confidential [40 CFR §122.7(b)and (c)]. Under Oregon law, certain other records, reports or information may be protected as a trade secret under appropriate circumstances if the permit applicant or registrant requests nondisclosure under the procedures set out in the statute [ORS 468.095(2)]. This condition is modified to include a reference to ORS 468.095(1).

**S1.H What are the public notice requirements of this permit?**

The NPDES general permit continues to require public notice prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to AWMPs as detailed in Table 4: NPDES General Permit #01 Public Notice Requirements below.

ODA may batch multiple notices as regionally appropriate. Application and permit documents (for example, 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. 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. ODA will provide a minimum of 30 days notice of a hearing if one is scheduled and the public notice period will remain open for additional comments for at least 7 days after the public hearing.

**Table 4: NPDES General Permit #01 Public Notice Requirements**

|                                     | <b>New Application</b>   | <b>Renewal Application</b>   | <b>AWMP Changes</b>   |
|-------------------------------------|--|--|---|
| <b>Permit Action</b>                | (a) Receipt of ODA <i>Application to Register (ATR)</i> for existing operation not currently under an NPDES permit or new proposed operation. Application to register includes an animal waste management plan, land use compatibility statement and fees. | (b) Receipt of renewal application to register includes an animal waste management plan, land use compatibility statement and fees. An animal waste management plan that is on file with Oregon Department of Agriculture can be used to fulfill application requirements, as long as an applicant certifies on the application form that animal waste management plan on file reflects current operation. | (c) Receipt of proposed substantial change to CAFO's AWMP (see S3.D in permit).   |
| <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> </ul>   | (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 persons list maintained</li> </ul>  | (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 persons list maintained</li> </ul> |

|                                  |  |  |   |
|----------------------------------|--|--|---|
|                                  | <ul style="list-style-type: none"> <li>Emailed to interested persons list maintained by ODA.</li> </ul> (ii) Opportunity for public hearing. See S1.H. above.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested persons.  | by ODA.<br>(ii) Opportunity for public hearing. See S1.H. above.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested persons. | by ODA.<br>(ii) Opportunity for public hearing. See S1.H. above.<br>(iii) A written response to relevant comments will be developed by ODA and made available to interested persons.                                    |
| <b>Contents of Public Notice</b> | <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>Summary of AWMP</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> |

**6.4 Special Conditions: S2. Discharge Limitations and Prohibitions**

The following limitations and prohibitions are consistent with OAR 340-051-0020(1), which states that “all confinement areas, manure handling and accumulation areas and disposal areas and facilities must be located, constructed, and operated such that manure, contaminated drainage waters or other wastes do not enter the waters of the state at any time, except as may be permitted by the conditions of a specific waste discharge permit issued in accordance with ORS 468B.050.”

**S2.A Discharge Limitations**

The NPDES general permit continues to prohibit the discharge of manure, litter, and process wastewater to surface water except as allowed by federal regulation. The sample result of a discharge that occurs during a federally allowed exception event must not exceed an amount of *E. Coli* bacteria, nitrate plus nitrite nitrogen (NO<sub>3</sub>+NO<sub>2</sub>) and phosphorous measured as total phosphorus (P) that is above a generally accepted quantitation limit in laboratory analysis. Discharge to groundwater is only allowed as detailed in S2.B and S2.C and provided such discharges do not cause or contribute to a violation of state water quality standards.

**S2.B Production Area Limitations**

Except for swine, poultry, and veal *large concentrated animal feeding operations*, the construction of which commenced after April 14, 2003, CAFOs are prohibited from discharging manure, litter, and process wastewater from their production areas to surface water except when rainfall events cause an overflow of waste management and storage facilities designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including the contaminated runoff and direct precipitation from a 25-year, 24-hour rainfall event (defined by the National Weather Service). However, if the facility is designed correctly but not properly managed, such a discharge may be considered a permit violation. As a result, an operator is required to assure that the waste management system is adequate and operating properly to comply with permit conditions.

The prohibition on discharge except during a 25-year, 24-hour rainfall event was developed by EPA as an effluent limitation guideline for *large concentrated animal feeding operations* and is detailed in 40 CFR Part 412. It represents the “best available technology economically achievable” or “BAT” for treatment of process wastewater as determined by EPA. In the 2003 general permit, ODA and DEQ expanded this prohibition to all CAFOs regardless of size because ORS 468B.200 requires the protection of the quality of waters of the state by preventing animal wastes from discharging into waters of the state and OARs adopted in 1972 have regulated CAFOs with the goal of preventing discharges to surface water and groundwater.

In addition, consistent with ORS 468B.200 and OAR 340-051-0020(1), all authorized discharges from the CAFO production area must be properly land applied or otherwise handled in a way that minimizes impacts on surface water or groundwater of the state. Seepage to groundwater from waste storage or animal confinement facilities must not exceed design rates as approved by ODA or violate state groundwater quality protection standards.

Discharge to surface waters from the production areas of “new source” swine, poultry, and veal *large concentrated animal feeding operations* continue to be prohibited outright. In 2003, EPA adopted new regulations for “new source swine, poultry, and veal *large concentrated animal feeding operations*.” For purposes of this general permit, a “new source” is a swine, poultry, and veal *large concentrated animal feeding operations* constructed after the April 14, 2003, adoption of the federal regulations. As discussed earlier, the term “new source” has been removed from the permit and the adoption date associated with new sources inserted directly into the prohibition statement.

Condition S2.B.5 is added to clarify that ODA will inform a permit registrant if any additional limits or controls are required to be consistent with an EPA-approved or issued TMDL wasteload allocation for CAFOs.

### **S2.C *Land Application Limitations***

Minor changes to this section of the NPDES general permit are for clarity.

The permit continues to require the following: application of wastes must not exceed agronomic rates; discharges to groundwater due to seepage beyond the root zone must comply with groundwater quality protection; and applications to frozen soil may only occur under certain conditions. Application of nutrients at the agronomic application rate minimizes leaching of soluble nutrients below the root zone. An agronomic application rate may be calculated for multi-year or multi-crop systems. This permit still contains a prohibition on the application of wastes immediately before or during rainfall events that are expected to result in saturated soils or surface runoff.

Condition S2.C.5 is added to make it clear that ODA will inform a permit registrant if any additional limits or controls are required to be consistent with an EPA-approved or issued TMDL wasteload allocation for CAFOs.

### **S2.D *Direct Access of Animals to Surface Waters of the State is Prohibited***

The NPDES general permit continues to prohibit direct animal contact with surface waters of the state in the production area of the CAFO. Direct 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 animal contact with surface waters by animals on pasture or rangeland is not, by itself, a violation of the permit.

### ***S2.E Waste Storage Facilities***

The NPDES general permit continues to require the following:

- 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 permit condition S2.C.
- The permit registrant must site, design, construct, operate, and maintain all waste storage facilities consistent with its ODA-approved 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 OAR Chapter 340, Division 051 Confined Animal Feeding or Holding Operations and Chapter 603, Division 074 Confined Animal Feeding Operation Program.
- For large operations, depth markers in all surface impoundments to indicate the maximum design volume, minimum capacity necessary to contain the 25-year, 24-hr rainfall event, and the depth of manure and process wastewater.

#### More Information on Design and Construction Standards

All wastewater control facilities and confined animal feeding operations must be designed, constructed, maintained, and operated in accordance with OAR Chapter 340, Division 051. ODA will accept and review design and post-construction certification by a licensed engineer for:

- Earthen impoundments (for example, ponds, basins and lagoons with permeable or impermeable liners)
- Earthen conveyances (for example, ditches)
- Animal holding areas (for example, lots, pens, exercise yards, alleys, and earthen-floored buildings within the production area)
- Primary storage structures for liquid and solid manure (for example, concrete or steel tanks, earthen- or concrete-surfaced solid manure storage facilities). A primary storage structure is any storage structure intended to hold an operation's waste for a period of five or more days.

For CAFOs intending to use experimental or unproven treatment methods or technology, design and post construction certification by a licensed engineer is not sufficient to obtain ODA approval. In these cases, the operator must contact ODA prior to construction for approval on a case-by-case basis. For all other modifications or new construction, no approval will be required. However, any such modification or construction must be described in the current, approved waste management plan, or a revised plan must be prepared and submitted to ODA for approval prior to construction.

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

The permit registrant 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. In addition, the permit registrant must ensure that the animal numbers do not exceed the capacity of the waste storage facilities or the maximum number of animals authorized under the permit holder's registration by ODA.

**S2.G Handling of Animal Mortalities**

This section prohibits the disposal of animal mortalities in liquid manure or wastewater control facilities. It also requires the permit registrant to handle animal mortalities in such a way as to prevent discharge of pollutants to surface water or groundwater. A minor clarification was made to the language in the NPDES general permit to include “waters of the state (surface water and groundwater)” rather than just “surface and groundwater.”

**S2.H Proper Operation and Maintenance**

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

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

There are no changes to this section. The permit registrant 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. The requirement that this condition applies only when the primary source of power is reduced, lost, or fails was removed because ODA and DEQ believe that the permit registrant should control application and discharges regardless of whether the reduction, loss, or failure of facilities is due to a loss of power or some other condition.

**S2.J Setback Requirement**

This condition clarifies when ODA will consider alternatives to the federal requirement (40CFR 412.4(c)(5)) for a 100 foot setback and 35 ft. vegetated managed buffer at large concentrated animal feeding operations and other types of CAFOs.

**S2.K Manure, Litter, or Process Wastewater Transfers**

The NPDES general permit continues to require that the permit registrant retain responsibility of the manure, litter, or process wastewater until the transfer or export is completed with the required documentation. This condition reminds the permit registrant that records are required as specified in permit condition S4.C. This condition requires that the permit registrant with a large CAFO provide the recipient of manure, litter, or process wastewater with a nutrient analysis from the previous 12 months prior to the transfer.

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

The NPDES general permit continues to require the management and proper disposal of wastes other than manure, litter, and process wastewaters.

State regulations that apply to proper management and disposal are in place. For example, DEQ’s Hazardous Waste web page at (<http://www.deq.state.or.us/lq/hw/hwmanagement.htm>) contains fact sheets and regulations on management of wastes

- Division 100 - Hazardous Waste Management System: General
- Division 101 - Identification and Listing of Hazardous Waste
- Division 102 - Standards Applicable to Generators of Hazardous Waste
- Division 109 - Management of Pesticide Wastes
- Division 113 - Universal Waste Management

Other state and local agencies also have rules and responsibilities regarding the storage of pesticides and hazardous chemicals:

- Oregon State Fire Marshall [www.oregon.gov/OOHS/SFM/index.shtml](http://www.oregon.gov/OOHS/SFM/index.shtml)
- Oregon Department of Agriculture [www.oregon.gov/ODA/index.shtml](http://www.oregon.gov/ODA/index.shtml)

## 6.5 Special Conditions: S3. Animal Waste Management Plan

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

The NPDES general permit continues to:

- Require the permit registrant to implement its ODA-approved AWMP;
- Incorporate the ODA-approved AWMP into the permit by reference; and
- Require the permit registrant to comply with its ODA-approved AWMP.

Condition S3.A. 3, which referred to absence of an AWMP, is removed, because AWMPs must be current and on file.

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

This section in the NPDES general permit continues to require the permit registrant to submit its AWMP, clarifies that the AWMP from the previous version of this permit may be used, and directs the permit registrant to the applicable sections of the permit that detail the submittal schedule and public notice requirements.

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

An ODA approved animal waste management plan is required for permit coverage. References to the Natural Resources Conservation Service (NRCS) conservation practice standard guidance 590 for Oregon in the NPDES general permit, the applicable requirements of NRCS 590 are stated throughout the permit. ODA accepts and reviews plans from NRCS-certified Comprehensive Nutrient Management Plan (CNMP) writers.

AWMPs must demonstrate that a CAFO will achieve an agronomic balance of nutrients land-applied with nutrients removed in harvested crops. ODA will typically require an agronomic balance for nitrogen and a phosphorus balance if the NRCS phosphorus index for the soil in land application field(s) indicates that phosphorous is the most limiting nutrient. A phosphorus balance may also be required if a CAFO is within a watershed that is designated by the state as water quality limited for phosphorus.

The level of detail of information required in AWMPs will depend on the size, complexity, and other specifics of each CAFO, and the need for additional or alternative information in an AWMP will continue to be established by ODA on a case-by-case basis as required as part of a separate corrective order. S3.C.2, a condition that referred to a schedule for improvement projects in an AWMP, is removed. A separate enforcement action can contain a schedule of improvement projects.

Once an AWMP is approved by ODA, the CAFO must be managed in compliance with the AWMP at all times. The application of manure, litter, or process wastewater at amounts higher than specified in the AWMP or at a concentration in excess of AWMP specifications or at times not specified in the AWMP would be considered a violation of the permit.

### ***S3.D AWMP Updates (formerly S3.D Plan Updates and Changes)***

The NPDES general permit continues to require public notice for AWMP modifications as listed in Table 5 below.

**Table 5: Public Notice Requirements for NPDES General Permit #01 AWMP Updates**

|   | <i>Small or Medium CAFO Electing Coverage</i>  |  | <i>All Other CAFOs</i>   |  |
|---|--|--|--|--|
|   | <i>Substantial Change</i>  | <i>Non-Substantial Change</i>  | <i>Substantial Change</i>  | <i>Non-Substantial Change</i>  |
| <b>Description of 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 CAFO.</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 a new or increased generation of waste, litter or process wastewater 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 wastewater 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 water or groundwater.</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 wastewater 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.4.   | Not required.  | ODA will public notice as described in S1.H.4.   | Not required.  |
| <b>ODA approval</b>                       | ODA will notify the permit registrant of its final decision concerning the proposed change(s) after the public notice period ends.   | ODA will notify the permit registrant of its final decision concerning the proposed change(s) after the public notice period ends.   | ODA will notify the permit registrant of its final decision concerning the proposed change(s) after the public notice period ends.   | ODA will notify the permit registrant of its final decision concerning the proposed change(s) after reviewing the proposal.  |

**6.6 Special Conditions: S4. Monitoring, Inspection, Recordkeeping, and Reporting Requirements**

**S4.A Monitoring Requirements**

*Monitoring of Prohibited Discharges*

This section refers to prohibited discharges. The monitoring requirements in the NPDES general permit include the following:

- Any discharge or runoff that is not allowed by the permit must be recorded and reported to ODA.
- The record must contain a description and cause of the discharge; the period of discharge, including exact dates, times, and duration of discharge; an estimate of the volume of the discharge; name or location of receiving water, and corrective steps taken to reduce, eliminate or prevent recurrence.
- In the event a discharge occurs, ODA must be notified within 24 hours of the event.
- A written report must be submitted to ODA within five (5) days.
- In the event of equipment failure, ODA must be notified within 24 hours.

Modifications to this special condition include notifying ODA if a grab sample was taken of the discharge and if a call was made to Oregon Emergency Response System to report a prohibited discharge that may encounter a drinking water source.

*Soil, Manure, Litter, and Process Wastewater Monitoring*

Information on the specific parameter to be analyzed and references to sample method are in this section. Nitrate-nitrogen is added to soil sample analytical monitoring for large CAFOs. The minimum frequency of analytical monitoring for large CAFO is once every 5 years and in addition includes sampling annually of no less than 20% of all fields or management units where manure, litter or process wastewater is applied. The requirements are designed to provide the CAFO with information to assist in the development and evaluation of application rates required in the AWMP. See Tables 6 and 7 below for a summary of the analytical monitoring requirements.

Analytical requirements are added for effluent samples to determine compliance with effluent limits in S2.A.1. of the permit.

**Table 6: Soil, Manure, Litter, and Process Wastewater Monitoring for Large CAFOs**

| Sample Type                                     | Analytical Parameter               | Minimum Frequency | Sample Method   |
|---|------------------------------------|-------------------|---|
| Manure, litter, and process wastewater          | Total nitrogen<br>Total phosphorus | Annually          | Sample according to guidance contained in PNW 0533 and PNW 505. |
| Exported manure, litter, and process wastewater | Total nitrogen<br>Total phosphorus | Annually          | Sample according to guidance contained in PNW 0533 and PNW 505. |

| Sample Type  | Analytical Parameter  | Minimum Frequency  | Sample Method  |
|--|---|--|--|
| Soil from land application area(s)   | Total nitrogen<br>Nitrate-nitrogen<br>Total phosphorus  | Annually on a minimum of 20% of the fields or management units that receive manure, litter or process wastewater applications each year. All fields or management units must be sampled at least once every 5 years. | Sample according to guidance contained in PNW 570-E, EM 8832-E for post-harvest nitrate-nitrogen |
| Grab sample of effluent discharge from production or land application area | <i>E. coli</i><br>Nitrate plus nitrite nitrogen (NO <sub>3</sub> +NO <sub>2</sub> )<br>Total phosphorus (P) | Upon occurrence, see S2.A.2, p.10 of the permit.   | Grab sample analyzed using test methods in 40 CFR Part 136                                       |

**Table 7: Soil, Manure, Litter, and Process Wastewater Monitoring for all Other Operations**

| Sample Type  | Analytical Parameter  | Minimum Frequency  | Sample Method   |
|--|---|--|---|
| Soil from land application area(s)   | Total nitrogen<br>Nitrate nitrogen<br>Total phosphorus  | Once every 5 years from all fields or management units where manure, litter, or process wastewater is applied. | Sample according to guidance contained in PNW 570-E, EM 8832-E. |
| Grab sample of effluent discharge from production or land application area | <i>E. coli</i><br>Nitrate plus nitrite nitrogen (NO <sub>3</sub> +NO <sub>2</sub> )<br>Total phosphorus (P) | Upon occurrence, see S2.A.2, p.10 of the permit.   | Grab Sample analyzed using test methods in 40 CFR Part 136      |

**S4.B Inspection Requirements**

The term periodically is now specified as at least once every six months. Inspections are required as follows:

**Table 8: Inspection Requirements**

| Item  | Large CAFO  | Other Operations  |
|---|---|---|
| (a) Stormwater diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to wastewater and manure storage and containment structures | Weekly and record results                         | At least once every six months.                         |
| (b) Water lines, including drinking water or cooling water lines  | Daily and record results                          | At least once every six months.                         |
| (c) Equipment used for land application of manure, litter, or process wastewater  | Daily when equipment is in use and record results | At least once every six months when equipment is in use |

| Item  | Large CAFO  | Other Operations                |
|---|---|---------------------------------|
| (d) Liquid impoundments for manure and process wastewater | Weekly and record depth of manure and process wastewater according to depth marker required by general permit condition S2.E.3. | At least once every six months. |

Any deficiencies found as a result of these inspections must be corrected as soon as possible. The permit registrant with a *large* CAFO must also record the 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**

The recordkeeping and availability requirements were not changed in NPDES General Permit #01. All required records must be kept and maintained at the facility for a period of five years and must be available to ODA upon request. The following recordkeeping is required:

**Table 9: Recordkeeping Requirements**

| Item or Parameter   | Large CAFO  | All Other Operations |
|---|---|----------------------|
| (a) Date, amount, and nutrient loading of manure, litter, or process wastewater 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 wastewater 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.12 of the permit) | Required             |
| (e) Description of actions taken to correct deficiencies discovered during inspections.   | Required (See S4.B.2, p. 18 of the permit)  | Not required         |

**S4.D Reporting Requirements**

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

The permit registrant is required to notify ODA within 24 hours of any discharge to surface water or groundwater that is not allowed by the permit and submit a written report within five days to ODA. Condition S4.D is modified to include a requirement for a permit registrant to call Oregon Emergency Response System to report a prohibited discharge that may encounter a drinking water intake. The permit registrant must also report to ODA within 24 hours of becoming aware of any significant physical failure at any time of a wastewater control facility required under this permit. The permit registrant is also

required to notify ODA within 24 hours and provide a written report within five (5) days of any permit noncompliance that may endanger public health or the environment.

#### **S4.D.2 Reporting of Monitoring Results**

This section is added to list the information that is provided with the analytical result when a grab sample result is submitted to ODA.

#### **S4.D.3 Annual Report**

Annual reporting to ODA is as specified in S4.D of the permit.

#### ***S4.E Additional Monitoring***

Specific monitoring requirements are established on a case-by-case basis for certain permit registrants, such as those located in groundwater management areas, or those that have been issued a corrective order relating to waste management, or for those permit registrants with two or more discharges within a 24-month period. ODA may establish these requirements by administrative order.

### **6.7 General Conditions**

The general conditions are standard permit conditions required by 40 CFR §122.41 and §122.42, OAR, or previously required by the 2009 general permit. The following changes have been made to the general conditions:

- A statement has been added to this section to clarify that the general conditions in this schedule apply only to the extent they do not conflict with the requirements contained in special conditions S1 through S4. If the permit requirements in special conditions S1 through S4 conflict with these general conditions, the permit requirements in special conditions S1 through S4 will control.
- “Noncompliance reporting requirements” has been deleted because it is covered by “Additional reporting requirements [40 CFR § 122.41(l)]”
- “Change of ownership or control” has been deleted because it is addressed in S1.D.
- “Duty to reapply” now refers directly to 40 CFR § 122.41(b) language and the specific process for reapplication has been deleted because it can be found at S1.C.2.
- The conditions have been renumbered and reordered to correspond more directly to 40 CFR § 122.41, except for “Compliance with other laws and statutes” which is not a federal standard permit condition.

## **7 Public Comment Period and Response to Comments**

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### **7.1 Public Comment Period**

Public notice to seek comments on only the modifications made to the proposed general permit conditions began Sept. 25, 2015 and closed on Nov. 2, 2015 at 5:00 p.m. A hearing was held in Salem on October 26, 2015. A summary of these modifications is provided in section 1.4 on p. 3. More information is available in a summary of comments and response to comments on ODA web page at <http://www.oregon.gov/ODA/programs/NaturalResources/Pages/CAFO.aspx> .