

Proposed November 13, 2025
Finalized May 15, 2026

State of Oregon
Confined Animal Feeding Operation Permit Program

CAFO NPDES General Permit #01-2026
Fact Sheet

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CAFO NPDES General Permit #01-2026
and Fact Sheet**

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1 Overview

1.1 Proposed permit action

The Oregon Department of Agriculture (ODA) and Department of Environmental Quality (DEQ) propose to renew National Pollutant Discharge Elimination System (NPDES) General Permit #01 for Confined Animal Feeding Operations (CAFOs). This proposed permit will replace NPDES General Permit #01-2016 that expired on Feb. 28, 2021. The general permit number will change to reflect the new effective year. It will be identified in electronic data management systems as NPDES General Permit #01-2026. A summary of proposed changes to permit terms and conditions is provided in section 1.4 below.

The goal of the permit is to prevent the pollution of waters of the state from CAFO activities. CAFOs that have the potential to discharge to surface waters of the state are required to obtain coverage under the NPDES General Permit #01 or an individual permit. CAFOs that only have the potential to discharge to groundwater may seek coverage under a Water Pollution Control Facilities (WPCF) permit or may voluntarily seek coverage under this NPDES General Permit #01-2026. Any person seeking coverage under the NPDES General Permit #01-2026 is subject to all of the terms and conditions of the applicable permit unless the permit specifies otherwise.

This general permit affects approximately 330 CAFOs that are currently registered to the 2016 version of the NPDES General Permit, future CAFOs desiring general permit coverage, and interested parties potentially affected by CAFO operations. Once issued, this general permit has an effective term of five years and expires thereafter.

1.2 What kinds of operations are covered by this general permit?

Briefly, the permit has the potential to cover the following operations:

- Any CAFO that has the potential to discharge to surface waters of the state. This includes animal feeding operations subject to regulation as concentrated animal feeding operations pursuant to 40 Code of Federal Regulations (40 CFR) § 122.23. These operations require NPDES general or individual permit coverage.

Note: The NPDES program requires permits for the discharge of pollutants from any point source into waters of the United States. Oregon DEQ received EPA approval to administer the NPDES program in 1973. Oregon's NPDES permit program is based on the state definition of surface "waters of the state," which is more expansive than the definition of waters of the United States. Therefore, an NPDES permit is required for the discharge of any wastes into the waters of the state.

Pertinent regulation references:

Federal Regulations:

- *Waters of the United States: 40 CFR § 120.2(a)*
- *EPA Administered Permit Programs: 40 CFR 122*

State Regulations (Oregon):

- *Waters of the State: Oregon Administrative Rules (OAR) 340-041-0002(72)*
 - *Regulations Pertaining to NPDES and Water Pollution Control Facilities (WPCF) permits: OAR 340-45*
- Any AFO designated as a CAFO by the Director in accordance with 40 CFR § 122.23(c).
 - Any operation that meets the Oregon state definition of a CAFO per OAR 603-074-0010(4). Briefly, a CAFO is defined as an operation which engages in the feeding or holding of animals:
 - In buildings, pens, or lots not sustaining vegetative growth in the normal growing season, for 12 hours or more per day for more than 120 days in a 12-month period, and has animal numbers as referred to in Table 1; or
 - With a waste water control facility and generates 100 gallons per day or more of liquid manure, process wastewater, or contaminated production area drainage; or
 - That discharge any wastes into waters of the state.
 - Any operation that is not required to obtain water quality permit coverage may voluntarily seek coverage under the NPDES general permit as discussed further below.

Table 1: Permit Designations (OAR 603-074-0011)

Operations that require permit	General Permit				Individual Permit	
	Small Tier	Medium Tier	Large Tier I ¹	Large Tier II	Individual Tier I	Individual Tier II
mature dairy cows ²	20-199	200-699	700-2,499	2,500 or more	Up to 9,999	10,000 or more
veal calves	30-299	300-999	1,000-3,499	3,500 or more	Up to 12,249	12,250 or more
cattle ³	40-299	300-999	1,000-3,499	3,500 or more	Up to 12,249	12,250 or more
swine ≥ 55 lbs	75-749	750-2,499	2,500-7,999	8,000 or more	Up to 19,999	20,000 or more
swine < 55 lbs	300-2,999	3,000-9,999	10,000-29,999	30,000 or more	Up to 49,999	50,000 or more
horses	40-149	150-499	500-1,499	1,500 or more	Up to 2,499	2,500 or more
sheep, lambs, or goats	300-2,999	3,000-9,999	10,000-39,999	40,000 or more	Up to 74,499	75,000 or more
turkeys	1,650-16,499	16,500-54,999	55,000-199,999	200,000 or more	Up to 349,999	350,000 or more
chickens, including laying hens or broilers, w/wet waste system	900-8,999	9,000-29,999	30,000-124,999	125,000 or more	Up to 199,999	200,000 or more
laying hens w/dry waste system	2,500-24,999	25,000-81,999	82,000-299,999	300,000 or more	Up to 449,999	450,000 or more
broiler chickens w/dry waste system	3,750-37,499	37,500-124,999	125,000-349,999	350,000 or more	Up to 499,999	500,000 or more
ducks w/dry waste system	1,000-9,999	10,000-29,999	30,000-124,999	125,000 or more	Up to 199,999	20,000 or more
ducks w/wet waste system	150-1,499	1,500-4,999	5,000 - 19,999	20,000 or more	Up to 49,999	50,000 or more
other animal type ⁴ or animal combination greater than 30 animal units	As determined by the director					

¹ Also includes all large livestock auction yards and seasonal feedlots.

² Whether milked or dry.

³ Other than mature dairy cows or veal calves; cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

⁴ To determine the number of animals that require permit coverage, ODA will compare the operation to the most similar animal type in the table.

1.3 Summary of proposed changes to NPDES General Permit #01

The following table summarizes the proposed changes to CAFO NPDES General Permit #01 as part of the renewal process and provides references for additional information on the proposed changes.

Table 2: Summary of Proposed Changes to NPDES General Permit #01

Reference	Proposed Change
6.1 Permit Outline	Remove use of term “Special Conditions”
6.2 Definitions	Utilize the term “Department” instead of “Agency,” “DEQ,” and “ODA” throughout document. <i>Remove and replace:</i> “Treatment works” with “Wastewater disposal system,” and “Animal Waste Management Plan (AWMP)” with “Nutrient Management Plan (NMP),” and update to clarify all N and P sources should be included. <i>Define:</i> “Animal unit,” “Authorized representative,” “Compliance,” “Expanding CAFO,” “Expanding large CAFO,” “Field capacity,” “Groundwater Management Area,” “Large CAFO,” “New CAFO,” “New large CAFO,” “Operator,” “Permittee,” “Pre-population inspection,” “Preliminary consultation,” and “Water Supply Plan (WSP).” <i>Remove:</i> “Dry waste treatment works,” “Waters of the U.S.,” and “Wet waste treatment works.” <i>Update:</i> “25-year, 24-hour rainfall event,” “40 CFR,” “Agricultural stormwater,” “Agronomic application rate,” “Bedding,” “CAFO,” “Dry waste,” “Dry weather discharge,” “Discharge,” “Frozen soil,” “Manure,” “Overflow,” “Pollutant,” “Pollution,” “Saturated soil,” “Waste storage facilities,” “Water,” and “Wastes.”
S1. Permit Coverage (Section 6.3)	
S1	Revise subsection titles to statements rather than questions.
S1A.2	Revise language for clarity and added Senate Bill (SB) 85 (2023) language to part (a).
S1A. Table 1	Revise language to clarify NPDES permit coverage is required for “Any person who owns or operates a [CAFO] that has the potential to discharge to surface water of the state...” Update Table 1 to include Tier I and Tier II for large CAFOs, and update whole table from OAR 603-074-0011 to reflect SB 85 updates, but delete fee section.
S1.B	Revise language for clarity on electing coverage.
S1.C	Add SB 85 elements and separate each application material into its own section.
S1.E.1	Add line at the top to clarify that this permit covers the construction AND operation of a CAFO.
S1.H	Revise subsection title from “Public Notice Requirements” to “Public Notice and Participation Process.”
S1.H.3	Change seven days to five days for public comment period following public hearing.
S1.H. Table 2	Remove section S1.I for public notice Table 2 and move to end of S1.H. Update Table 2 with current NPDES notice requirements and include SB 85 requirements.
S1.I	Create new subsection with title “Method to Submit Applications,” include NPDES eReporting and document submission requirements.
S2. Discharge Limitations and Operating Requirements (Section 6.4)	
S2.A.2	A requirement for a discharge to meet effluent limits of zero for Nitrate plus Nitrite Nitrogen, Phosphorus, and bacteria is subject to quantitation limits. This condition establishes how minimum quantitation limits are used to determine compliance.
S2.A.4	

	Add provision specifically prohibiting violation of Groundwater Quality Protection Rules, establishing legal authority to conduct further assessments as warranted.
S2.B.6	Move S2.D to S2.B as last point since it is related to prohibitions in the production area. Add reference to Agricultural Water Quality Rules in OAR 603-095.
S2.C. 3	Remove frozen soil allowance and add detailed limitations on conditions that allow land application.
S2.C.5	Add clarification that agricultural stormwater discharges are not subject to permit conditions.
S2.D	Renumber from S2.E.
S2.D.2	Clarify that storage must be sufficient to contain precipitation.
S2.D.3	Add mention of Groundwater Quality Protection Rules for reinforcement. Add exemption for maintenance of existing Department-approved facilities.
S2.D.4	Add visibility requirement for depth marker.
S2.D.5	Add detailed construction requirements for structures in GWMA's.
S2.E	Change subsection title from "Prevention of System Overloading" to "Maintaining Permitted Animal Numbers," and renumber from S2.F.
S2.F	Add subsection titled "Operating Within Allowable Water Uses" to highlight parameters related to water rights, a new requirement from SB 85 (2023).
S2.G.	Clarify management of animal mortalities.
S2.H	Revise language to "manure, litter, and process wastewater" to maintain consistency.
S2.H	Replace "possible" with "practicable".
S2.K.2(a)	Add subsection related to Nutrient Application Permit.
S2.K.3	Revise language for clarity.
S2.L	Toxic and deleterious substances are included in the list of material that cannot be disposed of in a system that manages uncontaminated stormwater.
S2.M	Add subsection titled "Proper Irrigation Water Management" to further detail nutrient management requirements.
<i>S3. Nutrient Management Plan</i> (Section 6.5)	
S3.A	Switch S3.A and S3.B for improved flow. Revise language for clarity.
S3.B.1	Clarify that a permittee must be operating in accordance with the CAFO's approved NMP and it must reflect CAFO conditions.
S3.C	Revise language for grammatical clarity.
S3.C.2	Add additional descriptive language for agronomic rate.
S3.C.2	Remove frozen soil condition.
S3.C.2(g)	Add mention of Groundwater Quality Program Rules.
S3.C.2(g)(iv)	Change "actual test results" to "sampled results" for clarity.
S3.C.2(g)(vii-ix)	Add details on agronomic application rate calculations.
S3.C.2(i)	Combine (i) and (j) into one Composting Management Plan that encompasses composting and solid waste conversion technology described in OAR 340-096-0090.
S3.C.2(k)	Add line regarding proper disposal of chemicals to reflect nine minimum elements and mirror S2.L.
S3.C.2(l)	Add line regarding procedures for irrigation water management to reflect S2.M.
S3.C.2(j & m)	Fix typo which organized these sections under application to frozen soils which has been removed.
S3.D.1	Delete section pertaining to small or medium CAFOs electing permit coverage and focus on section that pertains to all CAFOs covered by this permit.
S3.D.1	Revise subparts to align with 40 CFR Chapter 1, subchapter D, part 122, subpart C, 122.42, part e(6)iii.

S3.D.2	Revise subparts related to non-substantial changes, delete examples to prevent confusion through selectivity.
S3.D. Table 3	Delete Table 3, no longer necessary.
<i>S4. Monitoring, Inspection, Recordkeeping, and Reporting Requirements</i> (Section 6.6)	
S4.A.1	Revise language for clarity that monitoring is for all discharges and add “take reasonable steps to stop the discharge” to clarify what immediate steps should be taken. Add “as soon as possible but no later than 24 hours after discovery” to notification requirements. Describe the information to be recorded and reported in a “discharge monitoring report” for clarity based on language in OAR 603-074-0070 (4)(c)(B) and General Conditions Section D.
S4.A. 2 Table 3	Increase the frequency of soil sampling for small and medium CAFOs and increase the amount of annual sampling for large CAFOs located in GWMA that land apply manure or process wastewater. Combine monitoring activities and increase monitoring sample types and frequencies.
S4.B.1 Table 4	Merge columns to one entitled “Minimum Frequency by CAFO Type.” Increase the frequency of inspections of liquid impoundments from every six months to every month for small and medium CAFOs and they must record the results of inspections.
S4.C.2 Table 5	Add item (d) regarding the Nutrient Application Permit (NAP) and item (e) regarding outcomes and dates of inspections required under S4.B.1 for clarity.
S4.D	Reorganize and consolidate this section to clearly outline all reporting related to any discharges, failures and noncompliance, and the annual report. Revise language for clarity.
S4.D.1(a)	Add “as soon as possible after discovering the discharge but no later than 24 hours after discovery” to notification requirements.
S4.D.1(d)	Refer to the reporting requirements for an effluent grab sample of any discharge as a “follow-up discharge report” for clarity.
S4.D.2	Add language about reporting requirements for noncompliance that matches G.13 to be consistent in how requirements are listed rather than referenced.
S4.D.3(a)	Delete references to “previous 12 months” and utilize “previous calendar year” for clarity and consistency. Update from “certified waste management planner” to “certified nutrient management planner.” Reporting for all discharges to the Department.
S4.D.3(b)	Add NPDES eReporting requirement. Revise language for clarity.
<i>General Conditions</i> (Section 6.7)	
CAFO NPDES General Conditions	Update General Conditions with a version that more closely aligns with DEQ’s Schedule F conditions.

1.4 NPDES General Permit #01

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

Table 3: Summary of NPDES General Permit #01 Requirements

	NPDES General Permit #01
Permit Coverage	<u>Required Coverage</u> CAFOs that have the potential to discharge to surface waters. <u>Elective Coverage</u> CAFOs and animal feeding operations that do not have the potential to discharge to surface waters may elect coverage under this permit.
Application to Register (ATR)	An ATR for permit coverage must include a Preliminary Consultation, NMP, LUCS, WSP, New Construction, and fees. New or updated NMPs are required to be submitted with the application.

	An NMP or AWMP that is on file with ODA can be used to fulfill renewal application requirements, as long as an applicant certifies on the application form that the NMP on file reflects current operations. The Department will review an NMP prior to registration to the permit.
Public Notice for Application	All new and renewal applications are subject to public notice requirements.
Discharge Limitations and Operating Requirements	Discharges to surface waters are only allowed in limited circumstances. A discharge must meet effluent limits for Nitrate plus Nitrite Nitrogen, Phosphorus, and bacteria.
Nutrient Management Plan	Public notice of “substantial” NMP updates or changes is required.
Monitoring, Inspection, Recordkeeping, and Reporting Requirements	Monitoring, inspection, and recordkeeping requirements differ based on the size of a CAFO. 24-hour reporting of a discharge is a requirement for all CAFOs.
General Conditions	General NPDES conditions required by 40 CFR § 122.41 and § 122.42.

1.5 Authority for general permits

DEQ is authorized by 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; and
- 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 waste characteristics and management practices are generally consistent across operations. Oregon regulates all CAFOs, including those operations defined as federal *concentrated* animal feeding operations and those defined as state *confined* animal feeding operations.

Oregon’s CAFO program is jointly administered by DEQ and ODA. DEQ has legal responsibility for administering the NPDES permit program for CAFOs and is actively involved and responsible for Clean Water Act (CWA) compliance. The Legislature also established ODA’s responsibility to exercise its authority as an agent of DEQ through a legislatively authorized agreement with the Environmental Quality Commission (EQC). The terms “Director” and “Department,” as defined in the permit, refer to both DEQ and ODA. A Memorandum of Understanding (July, 2021) between the EQC and ODA details the coordination between the EQC and ODA for purposes of operating a program for the prevention and control of water pollution from a CAFO and to specify the parties’ respective duties with regard to regulating water quality related to CAFOs.

1.6 When is an individual permit necessary?

The majority of CAFOs in Oregon obtain permit coverage under either the NPDES General Permit #01 or the WPCF General Permit #01. The Director, however, may determine that a particular operation must obtain an individual permit. Any permittee 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 of the permit, situations when an individual permit may be required include:

- The CAFO 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 CAFO 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 utilizes technology that the Department believes should be initially regulated by an individual permit to demonstrate that the technology will work; or
- The CAFO activity is proposed in an environmentally sensitive area, e.g. Groundwater Management Area (“GWMA”).

1.7 Permitting options in designated Groundwater Management Areas (GWMA)s

“Groundwater Management Area” or “GWMA” means an area in which contaminants in the ground water have exceeded the levels established under Oregon Revised Statute (ORS) 468B.165, and that the affected area has been declared a GWMA under ORS 468B.180.

All new large CAFOs proposed to be located within a GWMA and proposing to land apply CAFO nutrients within that area are required to seek coverage under an individual permit. Permitting options for all other CAFOs in GWMA)s will be evaluated on a case-by-case basis. In situations where a CAFO might affect groundwater quality, additional monitoring requirements or management practices may be required by the Department as allowed by the general permits (see permit condition S4.E Additional Monitoring in either permit) or an individual permit may be required by the Department.

Oregon revised statute 468B.180 requires DEQ to declare a GWMA when DEQ groundwater assessments reveal area-wide groundwater contamination problems at consistently high levels. A GWMA declaration requires DEQ, ODA, Oregon Water Resources Department (OWRD), Oregon Health Authority and other state agencies to focus efforts to restore the groundwater quality. DEQ leads the effort by convening a local GWMA committee comprised of affected and interested parties. This committee works with state agencies to develop and implement an action plan to reduce groundwater contamination originating from point and non-point source activities in the area.

DEQ’s role in GWMA committees includes participating on the GWMA committee; responding to questions regarding groundwater quality; sharing DEQ groundwater monitoring data; reaching out to stakeholders and interagency coordination; educating the public; assisting with implementation of the management area action plans; maintaining groundwater quality monitoring networks; reviewing existing data to assess groundwater quality trends; helping to secure funding; and supporting local efforts to implement regulatory and best management practices to maintain and restore groundwater quality.

Oregon currently has three designated GWMA: Northern Malheur County, Lower Umatilla Basin, and Southern Willamette Valley. All three areas were designated for widespread nitrate contamination. More information on GWMA can be found on DEQ's website at <https://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>.

2 CAFO Activities and Pollutants

2.1 Regulated activities

The NPDES general permit regulates management of manure, litter, and process wastewater from CAFO activities. CAFO activities include, but are not limited to, 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; and
- 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 phosphorus 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. Additionally, nutrients can stimulate algae and aquatic plant growth. As algae and aquatic plants decompose, they exert a demand for oxygen, which depletes 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 November 1, 2025, 330 animal operations are registered to CAFO NPDES General Permit #01-2016. They include 177 dairy and dairy heifer, 19 poultry, 117 beef, and 17 other operations. The Department estimates that these CAFOs collectively generate approximately 10 million tons of waste on a yearly basis. The Department anticipates that many CAFOs currently registered to NPDES General Permit #01-2016 will maintain their coverage under an 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

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.

The Department has determined that issuance of NPDES General Permit #01 is consistent with the antidegradation policy and will not degrade existing water quality because: 1) the permit prohibits discharge other than in limited circumstances and contains a numeric effluent limit of zero for nitrate plus nitrite nitrogen, phosphorus, and bacteria, 2) discharge is prohibited that would 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.

The CAFO Program conducts various inspections at permitted and non-permitted facilities. Routine inspections of permitted facilities evaluate compliance with permit conditions and state water quality regulations. In 2024, ODA conducted 604 site inspections and issued 15 notices of noncompliance. Of the 340 CAFOs registered under an NPDES permit, one was fined for a discharge or other permit violation.

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 NMP that is a part of this permit, and the permit prohibits discharge to groundwater in violation of state Groundwater Quality Protection Rules under OAR 340-040.

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 to waters of the state except during a 25-year, 24-hour (or greater) storm event, as defined by the National Weather Service. In such rare events, any discharge must comply with applicable effluent limit guidelines. *The Three Basin Rule* allows renewal of permits provided there is no increase in the discharge load. Since the NPDES General Permit #01 requires that wastes be applied on land at agronomic rates and discharge is prohibited

other than in extremely limited circumstances, there will be no environmentally significant increase in discharge load. Therefore, new CAFOs within the three basins can also register to the NPDES General Permit #01 provided that their wasteloads 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)

As required under OAR 340-045-0035(3), to inform potentially interested persons of a proposed discharge and the Department's tentative decision to issue an NPDES permit, the Department must issue a public notice as directed in OAR 340-045-0035 sections (6) and (7). In addition to the standard requirements listed in OAR 340-045-0027(4), the public notice must include the following information:

- (a) When available, a description of the water quality of the receiving water body, both upstream and downstream of the discharge point;
- (b) If the receiving water body is listed as water quality limited under Section 303(d)(1) of the Clean Water Act:
 - A description of whether the proposed permit is related to the water quality-limited parameter(s); and
 - If so, how the discharge complies with an existing TMDL or, in the absence of a TMDL, how the discharge is otherwise allowable under water quality standards;
- (c) A description of any proposed increase in pollutant load and the actions required for the Department to approve such an increase.

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) 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 certain facilities as described in S2.B, 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,

phosphorus, and bacteria.

The Department will inform new and existing permittees 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 permittee will be required to revise the NMP to incorporate the requirements. The Department will provide a public review of an NMP at the time of application or if a revision of an NMP for a large CAFO is a substantial change.

As provided in the NPDES General Permit #01-2016 and maintained in the renewal, permit coverage may be modified or 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 additional special conditions for the applicable CAFO(s).

4 Renewal Application Process

4.1 Renewal application for NPDES General Permit #01

Permit coverage is administratively extended for permittees with properly completed applications that were submitted before the Feb. 28, 2021 expiration date of NPDES General Permit #01-2016. Permittees with administratively extended permit coverage will continue to operate under the existing permit until the Department notifies permittees otherwise. Once this proposed NPDES General Permit #01 is effective, existing permittees will be required to submit a renewal application amendment. The amendment must include a WSP if one has not already been submitted. The Department will notify existing permittees of their updated registration status pending renewal application review and public notice.

4.2 Public notice of renewal applications for NPDES General Permit #01

All renewal applications, which include NMPs and WSPs, are subject to public notice requirements described in permit condition S1.H, Table 2: Public Notice Requirements for Permit Coverage (see Table 4: NPDES General Permit #01 Public Notice Requirements, of this document).

4.3 Notification to applicant of permit coverage

The Department will notify the applicant when permit coverage is approved or denied. See 5.3 Notification to applicant of permit coverage of this document for more detail.

5 New Application Process

5.1 New applications: Application to Register (ATR)

The Department 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 mailing address of permit applicant and point of contact, if different;
- (b) Legal name and mailing address of the legal landowner of the production area and a certification of a property interest by the permit applicant, if different;
- (c) Facility information, including name, address, and latitude and longitude of production area or entrance to production area and diagram of the operation;

- (d) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area;
- (e) 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);
- (f) 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);
- (g) The total number and location of acres under control of the applicant available for land application of manure, litter, or process wastewater;
- (h) Estimated amount of manure, litter, and process wastewater generated per year (tons/gallons);
- (i) Estimated amount of manure, litter, and process wastewater transferred to other persons per year (tons/gallons);
- (j) NMP for review and approval;
- (k) Closest water body or receiving stream; and
- (l) Additional information as requested by the Department.

5.2 Public notice of new applications for NPDES General Permit #01

Public notice requirements are largely the same as the previous version of this permit and described in permit condition S1.H, Table 2: Public Notice Requirements for Permit Coverage (see Table 4: Public Notice Requirements for NPDES General Permit #01 of this document).

5.3 Notification to applicant of permit coverage

When NPDES General Permit #01 coverage is granted, the Department will notify applicants in writing and include the following:

- (a) Notice of Registration
 - Legal name of permittee, CAFO name, address, and contact information
 - Effective date of permit coverage
 - Maximum number of animals the operation is permitted to allow at the facility and the corresponding size designation based on the information provided in the *ATR* or renewal application
 - Conditions on the permit, if applicable
- (b) Copy of the NPDES General Permit #01

6 Discussion of Proposed NPDES General Permit #01

6.1 Permit outline

NPDES General Permit #01-2026 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

- S1: Permit Coverage
- S2: Discharge Limitations and Operating Requirements
- S3: Nutrient Management Plan
- S4: Monitoring, Inspection, Recordkeeping, and Reporting Requirements
- General Conditions

The term “Special Conditions” was removed from the permit to clarify that sections 1-4 are simply conditions of the permit and not specifically special conditions.

6.2 Definitions

The following terms are added, updated, or replaced to provide context for the permit:

- “25-year, 24-hour rainfall event” includes the option to use a different but equivalent data source than the originally referenced Technical Paper Number 40, should one become available while this permit is active.
- “40 CFR” no longer specifies a reference to 2014 to account for ongoing updates.
- “Agency” was removed and replaced with “Department” to collectively refer to ODA and DEQ. The definition remains the same.
- “Agricultural stormwater” is expanded to explicitly state the federal definition and updates its citation.
- “Agronomic Application Rate” is updated to mean the application rate or range of application rates of fertilizer required to achieve estimated crop yield with no or minimal leaching of nitrate beyond the crop root zone.
- “Animal Unit” is a new term added to clarify what operations constitute a CAFO and given the same definition found in OAR 603-074-0010.
- “Animal Waste Management Plan” was replaced by “Nutrient Management Plan (NMP)”. The definition remains the same.
- “Authorized representative” is added and refers to the federal definition
- “Bedding” was corrected to clarify that bedding is considered manure, litter, or process wastewater once it has been contaminated.
- “Compliance” was added and given the same definition as found in OAR 603-074-0010.
- “Confined animal feeding operation or CAFO” was updated to reflect the new state definition given in OAR 603-074-0010.
- “Department” replaces “Agency” and is expanded to clarify that references to the term may refer to both ODA and DEQ together.
- “Discharge” or Disposal is defined by OAR 340-045-0010 and 40 CFR § 122.2 and for purposes of this permit, a discharge to a surface water may only occur when the requirements of 40 CFR Part 412 and section S2. of this permit are met.
- “Dry waste” is updated to clarify bedding must be soiled to be considered waste and a line is removed which stated that dry waste does not become wet waste if it comes in contact with precipitation; it may.
- “Dry waste treatment works” was removed because it is not discussed in the permit.
- “Dry weather discharge” includes updated citations.
- “Expanding CAFO” and “Expanding large CAFO” are new terms added as a result of SB 85 (2023) and given the same definitions as found in OAR 603-074-0010.
- “Field capacity” was added to define the term used in S2.M, proper irrigation water management.
- “Frozen soil” was updated to refer to a frozen surface crust of 2 inches or deeper rather than 3 inches.
- “Groundwater Management Area” is a new term defined by OAR 603-074-0010.
- “Large CAFO” is a new term that was added to collectively refer to Large Tier I and Tier II CAFOs.
- “Manure” was updated to remove the examples and match the definition given in OAR 603-074-0010.
- “New CAFO” and “New large CAFO” are new terms added as a result of SB 85 (2023) and given the definitions found in ORS 468B.215.
- “Nutrient Management Plan (NMP)” was updated to include a citation and clarify that it must account for all nitrogen and phosphorus sources at the operation.

- “Operator” is a newly defined term which has been referenced broadly in the CAFO program and past permits and is given the definition in ORS 568.900(2).
- “Overflow” is corrected so the definition of discharge is utilized more appropriately.
- “Permittee” is a newly defined term to clarify a type of person who has been referenced broadly in the CAFO program and past permits.
- “Pollutant” was updated to include the definition in OAR and keeps the reference to federal rule.
- “Pollution” was updated to spell out the full definition of the term defined in ORS.
- “Pre-population inspection” and “Preliminary consultation” are new terms of new requirements added to the permit as a result of SB 85 (2023) and discussed in OAR 603-074.
- “Saturated Soil” was updated to mean soil with all available pore space filled with water.
- “Treatment works” was removed and the definition is more accurately represented under the new definition “Wastewater disposal system.”
- “Waste storage facilities” was updated to clarify that it includes wastes present until export as well as utilization.
- “Wastes” was updated to spell out the full definition of the term defined in ORS.
- “Water” or “Waters of the State” was updated to spell out the full definition of the term defined in ORS and sufficiently replaces “Waters of the U.S.” which are the focus of this permit.
- “Water Supply Plan” is a new term of a new requirement added to the permit as a result of SB 85 (2023) and discussed in OAR 603-074.
- “Wet waste treatment works” was removed because it is not discussed in the permit.

6.3 S1. Permit Coverage

The subsection titles under this section are updated from questions to straightforward statements to improve clarity for the reader.

S1.A Operations Required to Seek Permit Coverage

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 with the potential to discharge to surface waters. CAFOs not required to obtain NPDES permit coverage may still voluntarily elect coverage under the NPDES general permit.

The language in S1.A. was changed from "Any person who owns or operates a confined animal feeding operation (CAFO) **that discharges** to surface water of the state is required to obtain NPDES permit coverage" to "Any person who owns or operates a confined animal feeding operation (CAFO) **that has the potential to discharge** to surface water of the state is required to obtain NPDES permit coverage." This change clarifies that this is a no-discharge permit that aims to prevent a discharge before it occurs.

Table 1 Permit Designations is updated to show which permits each CAFO classification is eligible for. The animal numbers are updated in the table to be consistent with the number of animals in a Large Tier I and Large Tier II operation and the lower limits that constitute a Small Tier operation. The Department established Tier I and Tier II animal numbers as part of the fee increase and the CAFO definitional change in OAR 603-074-0010 and OAR 603-074-0011.

S1.B Operations Electing Permit Coverage

This subsection is updated to clarify that facilities meeting the state definition of a CAFO are required to obtain a water quality permit under ORS 468B.050. The appropriate water quality permit options include: the NPDES General Permit, an NPDES Individual Permit, the WPCF General Permit, or a WPCF Individual Permit.

The NPDES General Permit #01 allows any person who owns or operates a CAFO that is not required to obtain NPDES coverage – because they do not have the potential to discharge to surface waters of the state – to voluntarily seek coverage under this permit. Those who elect coverage are subject to the terms and conditions of the permit until permit coverage is terminated.

S1.C Requirements to Obtain Permit Coverage

The NPDES General Permit #01 requires applications to be submitted at least 180 days before permit coverage is needed or by a date specified in writing by the Department. Existing permittees seeking renewed coverage to this permit must apply by the Department-specified deadline, but no later than the current permit's expiration date. Permit coverage begins only upon written approval from the Department. Application requirements are outlined in new subsections, including Preliminary Consultation, Application Package, Application to Register (ATR), Land Use Compatibility Statement (LUCS), Water Supply Plan (WSP), and New Construction.

S1.C.1 Preliminary Consultation refers to the new pre-application requirement which came from SB 85 (2023). This consultation is required for all new and expanding large CAFOs and is intended to enhance inter-agency coordination, as well as communication and transparency with tribal governments.

S1.C.3 ATR lists the required elements on the ATR form that an applicant must fill out. New information required on an ATR includes an attestation of a property interest for the land on which a permit is being sought. Additionally, the manure storage type of impervious soil pad was replaced with the phrase compacted soil pad which is more accurate.

S1.C.4 LUCS describes a certification from the land use authority required in the application process. Both subsections are previous application materials and have been expanded upon for clarity.

S1.C.5 WSP is a new application material required under SB 85 (2023) which states that all new and renewing CAFOs must detail water sources to supply the water needs of the operation. A WSP is jointly reviewed by OWRD and the Department. OWRD makes the final determination as to the legality and sufficiency of water and may recommend ODA condition a permit based on their review.

S1.C.6 Renewal of Permit Coverage is renumbered, previously S1.C.2 and is updated to include the new WSP requirement.

Reference to elective regulatory status is removed from Notification of Permit Coverage, now S1.C.7 because all CAFOs registered under an NPDES permit must follow the permit terms and conditions regardless of if they require or elect NPDES coverage. The size designation that corresponds to the maximum number of animals allowed at the facility and any conditions that may be imposed on the permit are added.

S1.C.8 New Construction details a pre-population inspection, a two-step review process required under SB 85 (2023) before animals can be brought to new facilities on a CAFO. Should the review process determine that the newly constructed facilities do not meet permit conditions or design specifications to hold animals, the Department will inform the permittee of all deficiencies so that they can be corrected and another pre-population inspection can be requested.

S1.D Transferring Permit Coverage

This subsection informs the permittee that coverage may be transferred to a new permittee if all applicable conditions are met and a completed transfer form is submitted to the Department at least 30 days before the transfer occurs, or as otherwise specified by the Department.

S1.D.1 outlines new conditions for transfer eligibility, including: the existing permittee has no outstanding compliance issues, the new permittee holds a property interest in the CAFO, the new permittee will operate in accordance with the existing NMP or submit a new one, and the new permittee accepts environmental liability.

The transfer form must be signed by the existing permittee as well as the new permittee and landowner. The term “previous owner or operator” was changed to “existing permittee” and the term “new owner or operator” was changed to “new permittee” to be more accurate. The Department will review each request to transfer with a site visit and permit file assessment.

S1.D.3 makes clear that only an authorized representative may sign a transfer form in the event that the permittee is unable to.

S1.E Activities Covered Under this Permit

The NPDES General Permit #01 continues to cover discharges of pollutants resulting from processes, wastes, and operations identified in the NMP. It does not cover disposal of human wastes or systems that mix human wastes. Clarification is added to additional activities that continue to be covered under this permit which include the construction and operation of a CAFO as well as the application of manure, litter, and process wastewater to lands within a GWMA if they are *not* a part of a new large CAFO.

Condition S1.E.5 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 Department-approved NMP that ensure appropriate agricultural utilization of nutrients.

S1.F Cancelling Permit Coverage

This condition allows cancellation of NPDES General Permit #01 coverage if any of the following apply:

- The permittee is issued another CAFO permit;
- 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 the permit.

In addition, the permittee must certify they will not commence operations regulated by this permit at the same location without submitting a new application for one of the appropriate CAFO water quality permits.

The Department will perform a site inspection to determine if the permit can be cancelled and will issue its determination in writing to the requesting permittee.

S1.G Confidentiality

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 the Department, 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 Public Notice and Participation Process

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

The Department may group multiple notices for public comment by region as appropriate. Application materials will be available for public review at ODA headquarters, on the Department's website, and electronically upon public records request. Public comment periods are open for 35 days. A public hearing will be scheduled if sufficient requests are received per OAR 340-045-0027. If a hearing is scheduled, the Department will provide a minimum of 30 days advance notice. The public comment period will remain open a minimum of 5 days after the public hearing (updated from 7 days) to ensure a comment period of at least 35 days. The draft permit and fact sheet will be available electronically for the duration of the public comment period to meet public notice requirements.

Table 4, which is Table 2 in the permit, is included in S1.I. for consistency. In 40 CFR § 124.10(c)(2)(iv), EPA allows public notice of permitting actions on a website instead of a newspaper publication, and this table removes the requirement for a public notice to appear in a newspaper. Table 4 contains up-to-date public notice requirements including a WSP and individual neighbor notice required under SB 85 (2023). An individual neighbor notice is an applicant notice requirement detailed in OAR 603-074-0012.

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

	New Application	Renewal Application	NMP Changes
Permit Action	(a) Receipt of an ATR for a newly proposed CAFO or an existing CAFO not currently under an NPDES permit	(b) Receipt of a renewal application for an existing CAFO	(c) Receipt of a proposed substantial change to an existing CAFO's NMP, See Error! Reference source not found.
Public Participation Process	(i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> Available on the Department websites; 	(i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> Available on the Department websites; and 	(i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> Available on the Department websites; and

	<ul style="list-style-type: none"> Emailed to interested persons list maintained by the Department; and Mailed by the applicant to all individuals owning property within one half-mile of proposed production area for new large CAFOs. <p>(ii) Public notice of a hearing provided at least 30 days in advance.</p> <p>(iii) A written response to relevant comments will be developed by the Department and made available to interested persons.</p>	<ul style="list-style-type: none"> Emailed to interested persons list maintained by the Department. <p>(ii) Public notice of a hearing provided at least 30 days in advance.</p> <p>(iii) A written response to relevant comments will be developed by the Department and made available to interested persons.</p>	<ul style="list-style-type: none"> Emailed to interested persons list maintained by the Department. <p>(ii) Public notice of a hearing provided at least 30 days in advance.</p> <p>(iii) A written response to relevant comments will be developed by the Department and made available to interested persons.</p>
Contents of Public Notice	<ul style="list-style-type: none"> Name of operation Name of permit applicant, mailing address, and telephone number Physical address of operation Type of operation Number of animals proposed How and where to access permitting documents (ATR, LUCS, NMP, WSP, etc.) 	<ul style="list-style-type: none"> Name of operation City, county, and zip code Permit registration number Type of operation How and where to access permitting documents (NMP, WSP) 	<ul style="list-style-type: none"> Name of operation City, county, and zip code Permit registration number Type of operation Overview of proposed substantial change How and where to access the NMP and any other relevant permitting documents

S1.1 Method to Submit Applications

This new section adds electronic document submission requirements. Oregon NPDES eReporting system is not currently able to accept electronic submissions. This requirement becomes effective upon notification by the Department.

6.4 S2. Discharge Limitations and Operating Requirements

The following limitations and prohibitions are consistent with OAR 340-051-0020(1): *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 Prohibitions and 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 and state regulation. The permit contains numeric effluent limits for bacteria and nutrients. Although the effluent limits are zero, sample results 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_3+NO_2), and total phosphorus (P) that is above the quantitation limit in laboratory analysis. The quantitation limit is the lowest concentration of an analyte that can be quantitatively determined with acceptable precision and accuracy.

The CWA requires NPDES permits to incorporate TMDL requirements and demonstrate how the permit will achieve the assigned wasteload allocations. DEQ has established bacteria TMDLs for waters associated with CAFOs, which have wasteload allocations of zero; therefore, the permit includes a bacteria effluent limit of zero. Although TMDLs for phosphorus and nitrogen have not been developed, the permit must still ensure compliance with applicable water quality standards, including numeric instream targets identified on the 303(d) list. As a result, the limits for phosphorus and nitrogen are also set at zero to support attainment of water quality goals.

The purpose of the effluent limitation in S2.A. is to ensure that any effluent discharge that may occur does not contribute any nitrogen to surface water, therefore, nitrate plus nitrite nitrogen (NO_3+NO_2) is determined to be the most straightforward analytical parameter to indicate the presence of nitrogen in a potential discharge.

Examples of discharges are removed from S2.A.1 to prevent any confusion based on the examples not provided. These discharges are still prohibited as *all* surface water discharges, apart from the one exception in S2.B, are prohibited. 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 Ground Water Quality Protection Rules.

S2.A.2 describes how the permit establishes minimum quantitation limits and how the limits are used to determine compliance. Minimum quantitation limits are set as the compliance level for bacteria, nitrogen, and phosphorus.

S2.A.4 asserts that the permitted facility must be managed to prevent violations of the Groundwater Quality Protection Rules (OAR 340-40). This provision establishes the Department's legal authority to require updates or additional assessments of a facility's potential impact on groundwater quality when warranted. This aligns with the Department's broader efforts to implement measures that protect groundwater resources.

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 (40 CFR 412), CAFOs are prohibited from discharging manure, litter, and process wastewater from their production areas to surface water. One exception to this prohibition is when a 25-year, 24-hour rainfall event causes an overflow of waste management and storage facilities that are designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater, including the contaminated runoff and direct precipitation from this rainfall event. However, if the facility is designed correctly but not properly managed, such a discharge will be considered a permit violation. As a result, a permittee is required to assure that the waste management system is adequate and operating properly to comply with permit conditions.

The discharge prohibition, except during a 25-year, 24-hour rainfall event, is an EPA effluent limitation guideline for *large concentrated animal feeding operations*, as outlined in 40 CFR § 412. It represents the “best available technology economically achievable” (BAT) for treatment of process wastewater. In the 2003 general permit, the Department extended this prohibition to all CAFOs, regardless of size, based on ORS 468B.200, which requires protecting waters of the state from animal wastes. This approach is consistent with OARs adopted in 1972, which have regulated CAFOs with the goal of preventing discharges to both surface and groundwater.

In addition, consistent with ORS 468B.200 and OAR 340-051-0020(1), all authorized discharges from CAFO production areas must be properly land applied or otherwise handled in a way that minimizes impacts to surface or groundwater. Seepage to groundwater from waste storage or animal confinement facilities must not exceed design rates as approved by the Department 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* continues to be prohibited. 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 operation* 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.

Language referencing “all other authorized discharges” is removed from S2.B.3. The only authorized discharge to surface water is in the event of a 25-year, 24-hour rainfall event. The previous permit alluded to land application being an allowable discharge, however, provided that applications are made in accordance with S2.C and the NMP, they would not be considered a discharge.

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

Condition S2.B.6 replaces S2.D “Direct Access by Animals to Surface Waters of the State in the Production Area Prohibited.” The NPDES general permit continues to prohibit direct animal contact with surface waters within the production area of a CAFO. This includes any situation where animals in the production area have unrestricted access and are allowed to loiter in or deposit waste into surface waters. This prohibition does not apply to animals on pasture or rangeland. The condition has been relocated to S2.B for clarity, as it pertains specifically to production area requirements. It also references the Agricultural Water Quality Rules (OAR 603-095) to acknowledge the Agricultural Water Quality Management Program’s authority in preventing and controlling pollution from agricultural activities.

S2.C Land Application Limitations

The permit continues to require the following: application of wastes must not exceed agronomic rates, and discharges to groundwater due to seepage beyond the root zone must comply with groundwater quality protection. 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.

Condition S2.C.3 is updated to remove the frozen soil application allowance to prevent the risk of leaching and runoff. The list of circumstances that are prohibited for land application of manure, litter, or process wastewater is expanded upon to prohibit applications to snow covered fields, bare fields, and fields with soils that are or will become saturated, previously outlined in S2.C.4.

Condition S2.C.5 is added to clarify that dry weather discharges are a unique discharge from land application areas that are prohibited.

Condition S2.C.6 is retained to make it clear that the Department will inform a permittee if any additional limits or controls are required to be consistent with an EPA-approved or issued TMDL wasteload allocation for CAFOs.

S2.D Waste Storage Facilities

Subsection S2.D “Direct Access of Animals to Surface Waters of the State is Prohibited” is moved to section S2.B as condition 6, therefore S2.D is replaced with “Waste Storage Facilities.”

The NPDES general permit continues to require the following:

- Adequate storage capacity must be maintained at all times to ensure that land application occurs only when soil and weather conditions support agronomic application and are in compliance with the Land Application Limitations in condition S2.C.
- Waste storage facilities must be sited, designed, constructed, operated, and maintained consistent with the facility’s NMP. All new and modified construction must receive prior approval from the Department in accordance with ORS 468B.055, OAR 340-051, and OAR 603-074.
- Large operations must install depth markers in all surface impoundments, with the new clarification that they must be visible from the top of the levee or tank rim, to indicate:
 - The maximum design volume;
 - The minimum capacity necessary to contain the 25-year, 24-hr rainfall event; and
 - The depth of manure and process wastewater.

S2.D.2 is revised to include adequate storage to contain average precipitation as well the 25-year, 24-hour rainfall event and wastes.

More Information on Design and Construction Standards

All wastewater control facilities and CAFOs must be designed, constructed, maintained, and operated in accordance with OAR 340-051. The Department 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); and
- 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 Department approval. In these cases, the permittee must contact the Department 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 NMP, or a revised plan must be prepared and submitted to the Department for approval prior to construction. In S2.D.3, new and modified construction of waste facilities must be approved in advance and prior to construction, and additional language in this section clarifies that maintenance of existing, Department-approved waste storage facilities is exempt from this requirement. There is a repeat of language regarding preventing a violation to Groundwater Quality Protection Rules in condition S2.D.3 to reinforce proactive implementation of practices that are protective of groundwater quality.

S2.D.5 is a new subsection which outlines specific design parameters for new construction of liquid impoundments within GWMA's to be protective of groundwater quality. Additionally, the Department may impose site-specific construction requirements should it determine they are necessary to protect groundwater quality.

S2.E Maintaining Permitted Animal Numbers

Subsection S2.E is reordered from "Waste Storage Facilities" to "Maintaining Permitted Animal Numbers." This new subsection title replaces what was formerly S2.F "Prevention of System Overloading," and focuses on maintaining animal numbers that do not exceed the capacity of the waste storage facilities described in the NMP.

The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by the Department in the *Notice of Registration* until an updated plan is approved in writing by the Department. In addition, the permittee 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 permittee's registration by the Department.

S2.F Operating Within Allowable Water Supply

Subsection S2.F is reordered from "Prevention of System Overloading" to "Operating Within Allowable Water Uses." The addition of this new operating requirement highlights parameters related to a permittee's water rights that dictate the sources and amount of water a permittee may legally access to operate a CAFO.

This subsection stipulates that the permittee must have legal access to the quantity of water needed to supply all water needs of the CAFO such that it can operate in accordance with its NMP and permitted animal numbers. The permittee must report to the Department all presently available legal sources of water being used or planned to be used by the CAFO in the WSP for review by the Department and OWRD.

S2.G Handling of Animal Mortalities

This subsection is updated to add clarification that the disposal of animal mortalities in any *liquid* storage, wastewater control facilities, or treatment works not intended to manage mortalities, is prohibited. It also requires permittees to manage animal mortalities to prevent the discharge of pollutants to waters of the state - including surface water or groundwater. The parenthetical

clarification that waters of the state include surface water and groundwater was removed for simplicity and consistency with regulatory terminology.

S2.H Proper Operation and Maintenance

The permittee must properly operate and maintain all facilities and systems used for manure, litter, and process wastewater collection, storage and utilization, and correct any deficiencies found as soon as practicable.

S2.I Maintaining Compliance if System Fails

There are no changes to this subsection. 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. The requirement that this condition applies only when the primary source of power is reduced, lost, or fails was removed because the Department believes that the permittee 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 the Department will consider alternatives to the federal requirement (40 CFR § 412.4(c)(5)) for a 100-foot setback and 35 ft. vegetated managed buffer at large CAFOs and other types of CAFOs. More details are added to S2.J.3 and S2.J.4 regarding equivalent measure criteria.

S2.K Manure, Litter, or Process Wastewater Transfers

The NPDES general permit continues to require the permittee be responsible for all manure, litter, and process wastewater until the transfer or export is completed and properly documented. This condition reiterates the requirement to maintain records as specified in permit condition S4.C. Additionally, it informs permittees who export manure, litter, or process wastewater to facilities that have a Nutrient Application Permit (NAP) that they must record the NAP number on export records.

For large CAFOs, the permit also requires that permittees provide the recipient a nutrient analysis of the manure, litter, or process wastewater from the 12 months preceding the transfer.

S2.L Proper Disposal of Other Wastes

The NPDES general permit continues to require the proper management and disposal of wastes other than manure, litter, and process wastewaters. This includes toxic and deleterious substances, which must not be disposed of through systems designed to manage uncontaminated stormwater.

Several state regulations govern the proper management and disposal of these materials. DEQ's Hazardous Waste Program provides guidance and regulatory information, available at:

<https://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/default.aspx> .

Applicable OARs include:

- 340-100 - Hazardous Waste Management System: General
- 340-101 - Identification and Listing of Hazardous Waste
- 340-102 - Standards Applicable to Generators of Hazardous Waste
- 340-109 - Management of Pesticide Wastes
- 340-113 - Universal Waste Management

In addition to DEQ requirements, other state and local agencies also have regulations regarding the storage of pesticides and hazardous chemicals, including:

- Oregon State Fire Marshall:
<https://www.oregon.gov/osp/programs/sfm/Pages/HazMatStorageInfo.aspx>
- Oregon Department of Agriculture

S2.M Proper Irrigation Water Management

Subsection S2.M: “Proper Irrigation Water Management,” was added to ensure proper nutrient management and increase protections of groundwater.

The condition states that irrigation water must be managed such that the amount of water applied from the combination of precipitation and irrigation does not exceed the soil’s field capacity within the crop’s rooting depth. The volume of water to be used for each irrigation event need to be based on relevant factors such as field capacity, soil moisture status, irrigation distribution, other water contributions, and any computerized recommendations if applicable.

6.5 S3. Nutrient Management Plan (NMP)

S3.A NMP Submittal and Public Notice

The title Nutrient Management Plan replaces the previous one of Animal Waste Management Plan, although the content remains largely the same.

S3.A and S3.B have been reorganized from the previous permit to better reflect the sequence of NMP submittal and implementation. This section continues to require permittees to submit an NMP, allows for the use of an NMP developed under the previous permit upon renewal, and directs permittees to the applicable sections of the permit detailing the submittal schedule and public notice requirements.

S3.B NMP Implementation and Compliance

The permit continues to require permittees to implement their Department-approved NMP, which is incorporated into the permit by reference, and enforceable as a permit condition. The permit also clarifies that any proposed increase in animal numbers by 25 animals or 10%, whichever is greater, requires that the NMP be revised, resubmitted, reviewed, and approved by the Department prior to implementation.

S3.C NMP Elements

A Department-approved NMP is required for permit coverage. The permit includes references to the Natural Resources Conservation Service (NRCS) conservation practice standards (CPS), including the applicable requirements of NRCS CPS 590, which are incorporated throughout the permit and is newly cited. The Department accepts and reviews NMPs prepared by NRCS-certified Comprehensive Nutrient Management Plan (CNMP) writers or technical service providers. References to new appendices of the resources named in this section have been added.

NMPs must demonstrate that a CAFO will maintain an agronomic balance – ensuring that the amount of nutrients land-applied is matched by the nutrients removed in harvested crops. An agronomic balance for nitrogen is generally required; however, a phosphorus balance may be required if:

- The NRCS phosphorus index indicates phosphorus is the most limiting nutrient; or
- The CAFO is located in a watershed designated as water quality limited for phosphorus.

Additional guidance for agronomic application rate development is included in the permit.

The level of detail required in NMPs will vary based on the size, complexity, and other specific characteristics of each CAFO. The Department may require additional or alternative information as necessary, which will be established on a case-by-case basis through a separate corrective order.

Once an NMP is approved, the CAFO must be operated in compliance with the NMP at all times. Applying manure, litter, or process wastewater at rates or concentrations higher - or at times not specified - than what is approved in the NMP, constitutes a violation of the permit.

Updates to the NMP requirements include:

- Clarification that land application may not violate groundwater protection rules;
- Clarification of proper disposal of animal mortalities;
- Improvement of the language around compost management;
- Updates to language around agronomic applications reflective of the definition;
- Removal of conditions for frozen soil application;
- An affirmation of proper disposal of any chemicals or other wastes; and
- Procedures for irrigation water management.

S3.D Requirements for NMP Updates and Changes

The permit has been updated to align the classification of substantial changes across all NPDES permittees, removing previous distinctions between large CAFOs and all other operations. The list of substantial changes has also been revised to be consistent with federal requirements at 40 CFR § 122.42(e). All entities that elect coverage under this permit are subject to its full terms and conditions. The table previously titled “Overview of Requirements for Proposed Changes to AWMPs” has been removed, and the requirements are now clearly described within the permit text.

Additionally, examples of non-substantial changes have been removed. This change ensures that proposed NPDES changes will be evaluated on a case-by-case basis solely against the established list for substantial changes.

6.6 S4. Monitoring, Inspection, Recordkeeping, and Reporting Requirements

S4.A Monitoring Requirements

Section 1 discusses discharge monitoring. The term “prohibited” was removed from this subsection to encompass monitoring requirements for all types of 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 the Department;
- 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 that a discharge occurs, the Department must be notified as soon as possible after discovering the discharge but no later than 24 hours after discovery. A written discharge monitoring report must be submitted to the Department within five (5) days. The term “discharge monitoring report” is incorporated here to align with the language set out in OAR 603-074-0070(4)(c) and clearly describe the nature of the report; and
- In the event of equipment failure, the Department must be notified as soon as possible after discovering the discharge but no later than 24 hours after discovery.

The permit now clarifies that the Department must be notified if a grab sample of the discharge was collected and whether a discharge was reported to the Oregon Emergency Response System (OERS) for a prohibited discharge that may impact a drinking water source or other intakes where human health or the environment may be at risk. A modification to S4.A.1 includes the requirement to take reasonable steps to stop the discharge and report those steps.

Section 2 discusses soil, manure, litter, and process wastewater monitoring. Information on the specific parameter to be analyzed and references to sample methods are in this section. The minimum frequency of analytical monitoring for large CAFOs is annually and includes annual sampling of all fields or management units where manure, litter, or process wastewater is applied. For CAFOs located in a GWMA, analytical monitoring of soil from fields that receive manure, litter, or process wastewater pre-planting must occur before each application to fields. Small and medium CAFOs conduct manure sampling on all fields once every five years and upon request by the Department. These requirements are intended to support CAFOs in developing and evaluating land application rates as required in the NMP. The information gathered through compliance with these provisions helps ensure that nutrient applications are consistent with agronomic needs and environmental protection goals. Table 5 (Table 3 in the permit) was updated to include the minimum frequencies by CAFO type in one column and references to PNW 505 are removed because the source is now outdated. Sample types (a) through (d) now refer to Appendix C of the permit under sample method for a full citation of the resource.

Monitoring requirements for each sample type and analytical parameter are as follows:

Table 5: Soil, Manure, Litter, and Process Wastewater Monitoring for All CAFOs

Sample Type	Analytical Parameter	Minimum Frequency by CAFO Type	Sample Method
(a) Liquid and solid manure, and process wastewater (if handled separately).	Total nitrogen Total phosphorus	<ul style="list-style-type: none"> • <i>Larges</i> – annually • <i>Smalls and mediums</i> – upon request by the Department 	Sample according to guidance contained in PNW 0533 (Appendix C).
(b) Exported manure, litter, and process wastewater.	Total nitrogen Total phosphorus	<ul style="list-style-type: none"> • <i>Larges</i> – annually • <i>Smalls and mediums</i> – upon request by the Department 	Sample according to guidance contained in PNW 0533 (Appendix C).
(c) Soil from fields that receive manure, litter, or process wastewater – <i>pre-planting</i> .	Total nitrogen Total phosphorus	<ul style="list-style-type: none"> • <i>CAFOs in GWMAs</i> – before spring applications on all fields 	Sample according to guidance contained in EC628 (Appendix C).
(d) Soil from fields that	Total nitrogen	<ul style="list-style-type: none"> • <i>CAFOs in GWMAs</i> – 	Sample according to

receive manure, litter, or process wastewater – <i>post-harvest</i> (before 3 inches of rain accumulates and before significant post-harvest irrigation).	Total phosphorus Nitrate-nitrogen	in the fall on all fields <ul style="list-style-type: none"> • <i>Larges</i> – annually on a minimum of 20% of all fields such that all fields are sampled once every five years • <i>Smalls and mediums</i> – once every five years on all fields 	guidance contained in PNW 570-E, EM 8832-E (Appendix C).
(e) Grab sample of any effluent discharge from production or land application area.	<i>E. coli</i> , Total Phosphorus (P), Nitrate plus Nitrite Nitrogen (NO ₃ +NO ₂)	<ul style="list-style-type: none"> • <i>All CAFOs</i> – upon occurrence, see S2.A.3 	Grab sample analyzed using test methods in 40 CFR Part 136.

S4.B Inspection Requirements

Table 6 (Table 4 in the permit) is updated to list inspection items in one column and minimum frequency by CAFO type in one column. Inspections are required as follows:

Table 6: Inspection Requirements

Item	Minimum Frequency by CAFO Type
(a) Stormwater diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated stormwater to wastewater and manure storage and containment structures	<ul style="list-style-type: none"> • <i>Larges</i> – weekly • <i>Smalls and mediums</i> – every six months
(b) Water lines, including drinking water or cooling water lines.	<ul style="list-style-type: none"> • <i>Larges</i> – daily • <i>Smalls and mediums</i> – every six months
(c) Equipment used for land application of manure, litter, or process wastewater.	<ul style="list-style-type: none"> • <i>Larges</i> – daily when equipment is in use • <i>Smalls and mediums</i> – every six months when equipment is in use
(d) Liquid impoundments for manure and process wastewater.	<ul style="list-style-type: none"> • <i>Larges</i> - weekly (include depth using required depth marker, see S2.D.4) • <i>Smalls and mediums</i> – monthly

Liquid impoundment inspection requirements are increased for small and medium CAFOs. Also, any deficiencies found as a result of these inspections must be corrected as soon as possible. Permittees are required to 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. This record requirement is for all permittees, regardless of size.

S4.C Recordkeeping and Availability Requirements

All required records must be kept and maintained at the facility for a period of five (5) years and must be available to the Department upon request. A line item for the NAP was added to Table 7 (Table 5 in the permit) as a result of SB 85 (2023), and a line item for outcomes and dates of inspections required by S4.B.1 was added for comprehension and clarity. Recordkeeping is required as follows:

Table 7: Recordkeeping Requirements

Item or Parameter	Large CAFO	Small and Medium CAFOs
(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 during the previous calendar year 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 and the Nutrient Application Permit (NAP) registration number of the receiver if applicable.	Required Also include: (a) Date and amount of each transfer or export (b) Name and address of each recipient (c) Copy of the manure nutrient analysis conducted provided to the recipient (See S2.K.3)	Required
(e) Outcomes and dates of inspections	Required (See S4.B.1)	Required (See S4.B.1)
(f) Description of actions taken to correct deficiencies discovered during inspections	Required (See S4.B.2)	Required
(g) Practices used for mortalities management	Required (See S2.G)	Not required
(h) Documentation of current design of any manure or litter storage structures	Required Also include: (a) Volume for solids accumulation, design treatment, and total design (b) Approximate number of days of storage capacity	Not required

S4.D Reporting Requirements

This section is reorganized to clearly distinguish the different types of reporting requirements as follows:

- Condition 1** is related to discharges and outlines the required steps when a discovery of a prohibited discharge occurs. The term “prohibited” was removed from this subsection to encompass reporting requirements for all types of discharges. The permittee is also required to notify both the Department as soon as possible after discovering a discharge, but no later than 24 hours after discovery, and OERS as soon as possible if the discharge might impact drinking water. The permittee must submit a discharge monitoring report within five days to the Department, with is described in S4.A. The permittee must also submit a follow-up discharge report describing the findings of the representative grab sample no later than one month from the date the sample was taken unless a different schedule is established by an administrative order as described in S4.E. Information required by the follow-up report is described under this condition in the permit.

- **Condition 2** is related to failures and noncompliance. This section also outlines the required steps when a failure or noncompliance event occurs using similar language described in condition 1 and updated language to align with General Conditions Section D.
- **Condition 3** outlines requirements for the annual reporting. NPDES-permitted CAFOs are required to submit an annual report containing specific information for the previous calendar year to the authorized NPDES program (40 CFR 122) in accordance with 40 CFR § 122.42(e)(4). The word “actual” is removed from (ii) because the number of animals requested is averaged over the year. The term “certified waste management planner” is updated to “certified nutrient management planner” for accuracy. In of S4.D.3(a)(x) the phrase “Any Concentrated Animal Feeding Operation that discharges to surface waters” is replaced with “Large CAFOs and any small and medium CAFOs that discharge,” and the associated requirements are reformatted for clarity.
- **Condition 4** addresses the method of reporting and was added to include electronic reporting requirements. As appropriate and when electronic reporting is available, the Department will direct a permittee to begin using electronic reporting formats.

S4.E Additional Monitoring Requirements

Specific monitoring requirements are established on a case-by-case basis for certain permittees, such as those located in GWMA, those that were issued a corrective order relating to waste management, or those permittees with two or more discharges within a 24-month period. The Department may establish these requirements by administrative order.

6.7 General Conditions

The General Conditions are updated to incorporate elements from Schedule F NPDES General Conditions to more closely align with DEQ's NPDES permits, which include Schedule F as a standard practice to encompass both federal and state level authorities. The general conditions are standard permit conditions required by 40 CFR § 122.41 and § 122.42, OAR, ORS, or previously required by the 2016 general permit.

6.8 Appendices

This is a new section added to the permit following the general conditions section and contains three appendices to assist the permittee with permit compliance:

- Appendix A: Cites and includes a complete copy of the NRCS CPS for nutrient management as of the effective date of this NPDES permit;
- Appendix B: Cites and includes a complete copy of the NRCS Technical note for the interim phosphorus index as of the effective date of this NPDES permit;
- Appendix C: List of citations for each of the sample method resources listed in Table 3 of the permit and specifies the version for guidance as of the effective date of this NPDES permit.

7 Public Comment Period and Response to Comments

7.1 Public comment period

See the information provided in the public notice that accompanies this permit.