

**Oregon Department of Agriculture
Proposed Oregon CAFO NPDES General Permit No. 01-2026
Response to Public Comments**

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I. Summary of public comment process:

The Oregon Department of Agriculture (ODA) and the Oregon Department of Environmental Quality (DEQ) (collectively the Department) are proposing to issue the Confined Animal Feeding Operation (CAFO) National Pollution Discharge Elimination System (NPDES) General Permit #01-2026 (proposed general permit) The current CAFO NPDES General Permit #01-2016 expired and was administratively extended on February 28, 2021.

ODA provided a public notice and comment period for the proposed general permit. On November 13, 2025, the Department issued a public notice with an original public comment due date of December 22, 2025. On December 16, 2025, ODA hosted a virtual public hearing, during which 5 oral comments were made. In response to requests for an extension of the public comment period, ODA extended the public comment period to 5:00 pm on January 21, 2026. ODA received a total of 646 written comments on the proposed general permit.

II. Summary of public comments:

Oral comments

Five oral comments received at the virtual public hearing expressed opposition to the proposed general permit as written, based on concerns regarding public engagement, animal welfare, community impact of CAFOs, water quality, pollutant discharges, land application of nutrients, and manure exports.

A more detailed summary of these concerns, responses, and a description of any modifications made in response to the comments, can be found below.

Written comments

646 written comments received during the public comment period expressed opposition to the proposed general permit as written, based on concerns regarding public engagement and consultation, animal welfare, human health, air pollution and aerial emissions, community impacts, federal regulation, water quality, pollutant discharges, land application of nutrients, construction standards, water usage, and manure exports.

A more detailed summary of these concerns, responses, and a description of any permit modifications made in response to the comments, can be found below.

III. Responses to comments beyond the scope of the permit:

Many of the comments addressed the following areas of concern: 1) animal health and welfare, 2) conflicting values, 3) financial tradeoffs, 4) air pollution and aerial emissions, 5) quality of life, and 6) federal reductions in capacity. These concerns are not within the scope of this general permit. A summary addressing each concern is found below.

1. Animal health and welfare

Commenters expressed concerns about the impact of large-scale confinement on animal health and welfare.

Comments regarding animal health and welfare concerns are beyond the scope of the proposed general permit. The permit the Department is proposing to issue regulates potential discharges to waters of the state and water quality. Animal welfare concerns, including any violations of Oregon animal welfare laws, may be addressed by either the local sheriff's office or the [Oregon Humane Society](#). The Oregon Humane Society has Humane Special Agents who are certified police officers commissioned by the Oregon State Police to investigate animal crimes.

2. Conflicting values

Several commenters expressed general disagreement with large-scale animal

agriculture and the view that CAFOs are at odds with Oregon values and its commitment to environmental protection.

Value judgments related to large scale animal agriculture are beyond the scope of the proposed general permit, and large-scale animal agriculture is permissible under Oregon law. The proposed general permit is consistent with Oregon's commitment to environmental protection in that the proposed general permit regulates operations to ensure that any discharges to waters of the state are consistent with Oregon laws related to water quality and with the federal Clean Water Act. A permit ensures that any operation that constitutes a CAFO complies with the requirement to protect waters of the state of Oregon for beneficial uses and is protective of the environment within its regulatory scope.

3. Financial tradeoff

Commenters expressed the importance of comparing the cost of prevention to the cost of response to both CAFO permittees and the community in the event of an unauthorized discharge from a facility and the need to consider environmental justice and prioritize public concerns over corporate profit.

The proposed general permit regulates CAFOs with the potential to discharge to surface waters of the state. In line with that, the proposed general permit enforces the requirements that operations must follow to protect waters of the state of Oregon for beneficial uses. The permit conditions and requirements do not allow for discharge to surface waters of the state and provide assurances that discharges of pollutants will not occur. Once a permit has been issued, the permittee must comply with the conditions of the permit. Any subsequent violations of the permit requirements are handled through compliance and enforcement procedures.

4. Air pollution and aerial emissions

Commenters expressed concerns that aerial emissions from CAFOs including ammonia and other pollutants would threaten air quality for human health and the environment and result in a functionally equivalent discharge to surface waters.

The comments regarding air pollution and aerial emissions are beyond the scope of the proposed general permit. The permit the Department is proposing to issue regulates CAFO impacts to waters of the state. While DEQ is also the Oregon agency responsible for implementing the Clean Air Act (CAA), DEQ does so through a separate regulatory program and through air quality permits where required. ORS 468A.020(1)(a) exempts agricultural operations from most air quality laws. DEQ Air Programs monitor air pollutants to determine status with National Ambient Air Quality Standards (NAAQS). When ambient monitoring reveals a NAAQS violation, DEQ takes necessary steps to identify the pollutant sources and to implement strategies to retain compliance with the standards. The air quality data from different monitoring sites across the state are contained in the 2022 DEQ Air Quality Report available at the following link: [Oregon Air Quality Monitoring 2022 Annual Report](#).

5. Quality of life

Commenters expressed concerns over the potential effects on the neighborhood from CAFOs including a reduction of property values, odor, and competition.

General quality of life impacts from CAFOs unrelated to water quality are beyond the scope of the proposed general permit. The proposed general permit regulates discharges to waters of the state. The concerns raised in these comments relate more directly to land use which is regulated by the county and state land use system.

6. Federal reductions in capacity

Commenters expressed concerns regarding changes or possible changes in environmental agencies and regulations at the federal level and how it will impact water quality effects from CAFOs.

The United States Environmental Protection Agency has authorized DEQ to oversee NPDES permitting under the federal Clean Water Act in Oregon through a delegation of that permitting authority. DEQ and ODA have executed a memorandum of understanding (MOU) whereby ODA administers the CAFO permitting program. Although the proposed general permit is a federally compliant water quality permit, it is written and administered at the state level. Thus, the proposed general permit

requires compliance with both state and federal law. While the department does not control federal law (or any changes thereto), changes to federal law would not affect state law requirements. Oregon water quality statutes and rules meet and exceed those of the federal Clean Water Act (See ORS chapter 468B).

IV. Responses to comments within the scope of the permit:

This section details the concerns that are within the scope of the proposed general permit listed in Section II. Summary of Public Comments and provides the Department's responses to the concerns.

7. Public Comment and Participation Process

Comment period extension

Several groups submitted timely written comments to the Department requesting an extension of the public comment period.

The Department acknowledged the requests for public comment period extension and changed the closing date of the public comment period from December 22, 2025, to January 21, 2026. This change by the Department nearly doubled the comment period from 35 days to 69 days for people to submit written public comments regarding the proposed general permit.

Public hearing date

Several commenters submitted oral comments during the public hearing for the proposed general permit expressing dissatisfaction with the scheduled date of the public hearing because it was on the same day as another ODA public hearing.

The Department issued a public notice on November 13, 2025, on which it scheduled and announced a public hearing for the proposed general permit as December 16, 2025. This public hearing was scheduled and announced more than 30 days before the date of the public hearing which met and exceeded public notice and participation requirements in OAR 340-045-0027.

Comment period close date

Many commenters expressed concerns regarding the timing of the public comment period close date after the public hearing date.

The Department is proposing to align the CAFO NPDES permit section S1.H Public Notice and Participation Process, with OAR 340-045-0027. The administratively extended CAFO NPDES General Permit #01-2016 used a comment period close date of at least seven days after a public hearing. Public hearings may be requested in writing during the public comment period from at least ten persons or from an organization representing at least ten persons to occur, or the Department may elect to hold a hearing without request. If commenters would like an extension of the public comment period, they may submit a request, and the Department will consider extension as it has done before.

Environmental Justice

One commenter expressed concerns that the proposed permit does not prioritize environmental justice and the Department did not comply with ORS 182.545.

The Department prioritized environmental justice in the permit development and issuance process. In the development of this permit, the Department consulted with its Tribal liaisons and notified all nine federally recognized tribes in Oregon and invited participation ahead of the official public notice.

As part of its commitment to engaging communities that will be affected by the decisions of the agency and encouraging public participation, the Department issued two public notices, both in English and in Spanish, on November 13, 2025, regarding the public comment period and public hearing dates. The Department scheduled its hearing 30 days prior to the meeting and made it virtual to make it accessible to as many people as possible. Both notices provided resources for non-English speakers to request translation services for the hearing. The Department did not receive any such requests, nor did it receive requests for a change in scheduling. Should the Department receive a request for translation services or scheduling changes, it will prioritize public engagement and accessibility.

8. Preliminary consultation

One commenter expressed concern regarding the proposed pre-application preliminary consultation requirement for all new and expanding large CAFOs based on a lack of statutes or rules and a lack of timeline which will slow down the application process.

Senate Bill 85 (2023) amended ORS 468B.215 to require all new and expanding large CAFOs to complete a preliminary consultation prior to submitting a permit application or request for permit modification. ORS 468B.215 details that this consultation must occur within 45 days of a request, include ODA, DEQ, and Oregon Water Resources Department (OWRD), and involve proper notification to all federally recognized Indian tribes.

9. Operations required to seek permit coverage

Permit thresholds

One commenter expressed concerns that the requirements for operations required to seek permit coverage in Oregon are too general and should consider more case-by-case and site-specific conditions.

In Oregon, a CAFO is defined in OAR 603-074-0010 as an operation that engages in the feeding or holding of animals: (A) 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 OAR 603-074-0011; or (B) 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 (C) That discharge any wastes into waters of the state. Or an animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR § 122.23.

The definition of a CAFO was updated in 2024 to clarify permit thresholds and consider the breadth of operations across the state. Consideration for site-specific conditions is given in the review and approval of operation-specific Nutrient Management Plans

(NMPs). If the conditions of a general permit are still too broad, a permittee required to seek permit coverage may apply for an individual permit instead.

Potential to discharge language

Many commenters expressed concerns regarding the introduction of the phrase “potential to discharge” to the proposed general permit section S1.A Operations Required to Seek Permit Coverage. Commenters both supported and disapproved of the addition and many also requested further clarifications of the term.

The requirements for CAFOs to obtain permit coverage under state law are contained in ORS 468B.025 and 468B.050. These provisions require a permit to construct a CAFO, "the operation or conduct of which would cause an increase in the discharge of wastes into waters of the state or which would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized." ORS 468B.050(1). Additionally, placing waste in a location where it is likely to be carried into waters of state without a permit is prohibited. ORS 468B.025(1)(a). Because of these broad requirements to obtain permit coverage and because the permit does not authorize discharge to surface waters of the state, but rather is designed to direct operations in avoiding discharge, the Department determined that this language was more reflective of the need and intent of the permit.

Additionally, this language is included in the permit because the Department wants the permit to be clear that coverage is required for CAFOs that have the potential to discharge to surface waters of the state. If a CAFO does not have the potential to discharge to surface waters of the state, the operation may choose to obtain coverage under a Water Pollution Control Facilities (WPCF) Permit.

10. Water Quality and Discharges

Most commenters expressed concerns regarding threats to water quality resulting from discharges that they believed would impact beneficial uses. Commenters suggested that the proposed general permit will result in the degradation of groundwater through leaching and the degradation of surface water through a direct discharge or the functional equivalent of a direct discharge. Commenters

expressed concerns that the proposed general permit's monitoring requirements are not robust enough to protect water quality and suggested the inclusion of additional monitoring requirements.

Ongoing CAFO pollution

Several commenters expressed concerns that currently permitted CAFOs are actively polluting waters of the state through unauthorized discharges.

The proposed general permit does not allow discharges to surface water. Additionally, proposed general permit conditions require monitoring and construction standards to prevent permit violations. Once a CAFO is permitted, the permittee must comply with the conditions of the permit. Any violations of permit requirements are handled through compliance and enforcement procedures.

In 2025, the CAFO program had a 99.2% compliance rate across 497 routine inspections, which occur every ten months, and a 50% compliance rate across 4 total complaint-driven inspections. ODA prioritizes investigating complaints alleging CAFO permit violations, including discharges to waters of state. Should a commenter have concerns regarding a violation of permit conditions, they should submit a complaint to the Department for review via phone or by submitting a complaint on ODA's website.

Discharges equated as permit noncompliance

One commenter expressed concerns regarding the conflation of discharges and other permit noncompliances.

Any violation of terms and provisions of the proposed general permit by a CAFO registered to the permit constitutes permit noncompliance. The Department has defined procedures and a penalty matrix to determine enforcement actions responsive to any violation scenario outlined in OAR 603-074. Not all violations of the permit are a direct result of discharge. Permit noncompliance not associated with a discharge is handled differently than permit noncompliance as a result of a discharge.

Additionally, reporting requirements for failures and noncompliance, S4.D(2), are specifically for significant failures and noncompliance that may endanger health or the environment. These reporting conditions are required for all NPDES permits by 40 CFR § 122.41(l). Even if a discharge does not occur, to avoid permit noncompliance, a permittee must follow the terms and provisions of the proposed general permit.

Effluent limits

Several commenters expressed concerns over effluent limits included in, as well as those absent from, the proposed general permit. One commenter stated that the effluent limits were not workable and should consider adaptive management, water quality risk and other factors. Another commenter requested that the Department establish Best Professional Judgement (BPJ) effluent limitations for additional pollutant discharges.

The Department established effluent limitations for Nitrate plus Nitrite, E. coli, and Phosphorus, key pollutants produced and managed at CAFOs. Due to the federal Clean Water Act anti-backsliding requirement, the proposed general permit, which replaces the 2016 expired general permit, cannot be less stringent than the prior permit. For these reasons, the effluent limits need to remain, at most, 0.0ppm.

BPJ effluent limits can be enacted through numerical effluent limits or best management practices. The Department-approved Nutrient Management Plans (NMPs) specific to each operation registered to the CAFO permit provide sufficient best management practice to manage pollutants that do not have numerical effluent limits. The proposed general permit does not allow discharges to surface water and each NMP outlines how manure and wastewater will be managed to prevent the discharge of pollutants to waters of the state.

Production area discharges

One commenter expressed concerns regarding allowances of discharges occurring from production areas.

The proposed general permit does not allow discharges to surface water. Additionally,

the permit conditions require monitoring and construction standards to prevent permit violations. Once an operation is registered to a permit, the permittee must comply with the conditions of the permit. Any violations of the permit requirements are handled through compliance and enforcement procedures.

CAFO facilities are not designed to discharge, they do not have discrete discharge points where end-of-pipe monitoring can occur. Facilities are designed for and have operational characteristics intended to prevent discharges to surface waters of the state or degradation of water quality. The permit relies on a combination of design standards, operational requirements and inspections to prevent discharges. In the event a discharge does occur, the permit requires sampling, reporting, and corrective action. The Department may also require additional actions through the enforcement process.

The production area 25-year 24-hour rainfall event exception outlined in S2.B(1) is carried over from federal NPDES effluent limitation guidelines (40 CFR § 122.31-.46). In the event of a qualifying storm event, a production area must be operated in accordance with all other permit conditions, and the discharge must still meet effluent limitations outlined in S2.A.

Representative monitoring

Many commenters expressed concerns that the proposed general permit lacks sufficient representative monitoring of discharges to meet federal Clean Water Act requirements for NPDES permits.

CAFOs may not have direct discharge infrastructure, and facilities are required to be designed for and have operational characteristics so that they will not cause any discharges to surface waters or degradation of water quality. Additionally, the proposed general permit requires monitoring and construction standards to prevent water quality violations and to ensure compliance with the aforementioned requirements.

The Department cannot accommodate the requests for monitoring at discharge points

because the proposed general permit does not allow facilities to operate with direct discharge points and accordingly, there is no location to monitor. Should a CAFO violate the permit through a prohibited discharge, it is required to monitor, stop, and take representative samples of the discharge at the point of discharge. This representative monitoring requirement is outlined in the proposed general permit, and any samples must also then meet effluent limitations described in S2.A.

Additionally, the monitoring, inspection and recordkeeping requirements in S4 of the permit are designed to track and verify permit compliance. Conducting visual inspections of manure, litter, and wastewater conveyances, application areas, and storage in accordance with the permit along with the discharge reporting requirement provide monitoring that is protective of waters of the state.

Exclusion of groundwater from regulation

One commenter expressed concerns regarding the inclusion of groundwater protection in the permit.

This permit is drafted to ensure protection with all state law water quality requirements including the Groundwater Quality Protection Rules at (OAR 340-40), where applicable. CAFO NPDES general permit #01-2016 similarly prohibited a violation of state groundwater quality protection requirements and removal of this would violate federal antibacksliding requirements.

Functional equivalent of direct discharges

Several commenters expressed concerns that permitted operations may discharge to surface waters of the state via groundwater, or constitute the functional equivalent of a direct discharge.

To ensure that a CAFO has permit coverage that is protective of water quality and meets the requirements of state and federal law, the Department will use the criteria established in federal Clean Water Act case law to determine if there is sufficient information that demonstrates that a functional equivalent discharge will occur to surface water via groundwater. If the Department concludes that an operation is likely

to have the functional equivalent of a direct discharge to navigable waters, the operation will not be eligible for a WPCF permit.

Additionally, the proposed general permit does not allow discharges to surface water. Accordingly, permittees are prohibited from discharging to surface waters through a functionally equivalent discharge or otherwise. Any violations of the permit are handled through compliance and enforcement procedures.

11. Water usage

One commenter expressed concerns regarding the inclusion of water usage as part of the CAFO permitting process and stated that the regulation of water use is outside the scope of the Department's authority. The commenter also expressed concerns regarding the lack of a Water Supply Plan (WSP) review timeline.

The proposed general permit regulates discharges to waters of the state. It is a water quality permit. However, since the passage of Senate Bill 85 (2023), ORS 468B.215 requires any person that applies for a permit under ORS 468B.050 to submit a WSP with the application. A WSP must identify all sources of water that will supply the level and duration of the water needs of the CAFO. OWRD reviews the WSP to determine whether the water uses identified in the WSP are legally authorized and allowable. The Department may then impose any conditions on a permit that are necessary to ensure that the quantity of water necessary to supply the level and duration of water needs is legally authorized (ORS 468B.215).

OWRD has 45 days to review a WSP and provide a determination if the water uses identified are legally authorized and allowable. While the Department is responsible for enforcement related to permit violations, OWRD remains the agency responsible for ensuring water use is lawful and would be the agency responsible for enforcement to curtail unauthorized use of water.

12. Land applications

Application limitations

One commenter expressed concerns regarding the feasibility of an outright

prohibition of field applications of manure, litter, and process wastewater to fields that are within 12 inches of the water table. Several commenters expressed concerns regarding the prohibition surrounding applications of manure, litter, and process wastewater to frozen soil and other commenters expressed concerns regarding the lack of sufficient prohibition surrounding applications of manure, litter, and process wastewater to frozen soil.

The Department has considered the water table application and recognizes there are regional or site-specific soils and hydrologic characteristics that may differ in the risks to groundwater (for example, areas with highly permeable soils but water tables at depths greater than 12 inches). The Department has decided to remove the specific 12-inch water table depth limitation to eliminate the risk that could be created by having an overly specific depth limitation. The permit includes multiple groundwater protection requirements, including those in S2.C which are designed to address site-specific conditions and are sufficient to protect groundwater quality.

The proposed general permit prohibits the application of manure, litter, and process wastewater to frozen fields. The definition of frozen soil is written as “soil with a frozen surface crust of 2 inches or deeper, or if the soil is at or below zero degrees Celsius (32 degrees Fahrenheit).” The Department believes this common regulatory definition is sufficient to protect groundwater quality and for permittees to follow.

Soil sampling

Several commenters expressed concerns regarding the language surrounding the post-harvest soil nitrate testing. Commenters suggest removing language that relies on an amount of precipitation and creating more flexible conditions that account for seasonal variability.

The Department recognizes the regional seasonal variations in climate and harvest timings. The Department has removed the specified date of September 1st for beginning to calculate the amount of precipitation and instead maintained the condition of taking a post-harvest soil sample prior to 3 inches of rainfall or post-harvest irrigation. This allows for flexibility in harvest timing regionally while still requiring post-harvest soil

testing to be conducted.

13. Construction Standards

Anerobic digestors

Many commenters expressed concerns regarding the allowance of anaerobic digestors to be accounted for in operation-specific NMPs that will become part of the proposed general permit.

DEQ is the agency responsible for permitting anaerobic digestors in the state of Oregon. DEQ has an MOU with ODA, through which they jointly write and issue CAFO permits. DEQ remains involved in the permit review and issuance process for all CAFOs that have or propose to build anaerobic digestors. All digestate applications are required to follow permit conditions and meet agronomic application rate requirements when land applications of the manure are part of the approved NMP.

Universal lagoon and compost standards

Several commenters expressed concerns regarding construction and storage standards and requested universal standards in the proposed general permit or a definition of the phrase “adequate storage”.

The Department reviews NMPs on an individual operation basis for each CAFO seeking to register to the proposed general permit. The Department has specified lagoon standards for new construction in Groundwater Management Areas (GWMA) given their unique risk posed by their geographical location. For all other areas of the state, the Department relies on NRCS standards and Oregon licensed engineer approval to determine if manure, litter, and wastewater storage will be sufficient to protect water quality. At this time, the Department will continue to rely on NRCS standards and engineering industry experts to support the NMP and construction design review process. The Department will also consider the amount of storage available to each CAFO on a case-by-case basis to align the permit review with local geographic and climate conditions as well as operation and maintenance considerations outlined in the NMP.

Pre-population inspections

One commenter requested that pre-population inspections only apply to new CAFOs.

Senate Bill 85 (2023) amended ORS 468B.215 to prohibit the introduction of animals to new CAFO facilities and newly installed or constructed facilities of an expanding facility prior to an inspection by the Department. This inspection is defined and clarified as a pre-population inspection in the proposed general permit. Because this requirement derives from statute, this inspection is a required step of the CAFO permitting and expansion process that ODA cannot further limit.

14. Nutrient Exports

Several commenters expressed concerns regarding nutrients leaving CAFOs as exports. Commenters would like exports to be defined more extensively and tracked with a chain of custody.

The proposed general permit regulates permitted CAFOs and is required for operations that meet the Oregon definition of a CAFO (OAR 603-074-0010) that have the potential to discharge to surface water. Nutrients produced on CAFOs must be stored and applied in accordance with permit terms and conditions. Once CAFO nutrients exit the permitted operation, much like store bought fertilizers, they become the responsibility of the applying party.

Senate Bill 85 (2023) requires that receivers of CAFO nutrients within GWMA be registered to a Nutrient Application Permit. ODA is working on the development of a Nutrient Application Permit to regulate the application of CAFO nutrients within GWMA.

V. Summary of changes to the proposed CAFO NPDES General Permit:

The Department has made two changes to the proposed NPDES general permit based on the public comments received during the public comment period. The Department has considered the water table depth limit and recognizes there are regional or site-specific soils and hydrologic characteristics that may differ in the

risks to groundwater (for example, areas with highly permeable soils but water tables at depths greater than 12 inches that could impact water quality.) The Department has decided to remove the specific 12-inch water table depth limitation to eliminate the risk that could be created by having an overly specific depth limitation. The permit includes multiple groundwater protection requirements, including those in S2.C which are designed to address site-specific conditions and are sufficient to protect groundwater quality.

The Department has removed the specified date of September 1st for beginning to calculate the amount of precipitation and instead maintained the condition of taking a post-harvest soil sample prior to 3 inches of rainfall or post-harvest irrigation. This allows for flexibility in harvest timing regionally while still requiring post-harvest soil testing to be conducted.

At this time, the Department issues the proposed Oregon CAFO NPDES General Permit No. 01-2026.