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OREGON CONFINED ANIMAL FEEDING OPERATION
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT NUMBER 01-2008

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

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

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

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DEFINITIONS

1. "25-year, 24-hour rainfall event" means an event with a probable recurrence interval of once in twenty-five years or one hundred years, respectively, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, or equivalent regional or state rainfall probability information developed from this source.
2. "Animal waste management plan" or "AWMP" means a written document containing the minimum elements necessary to manage manure, litter, and process waste water from operations covered by this permit in accordance with the terms and conditions of this permit. See S3.C, p. 12, for specific plan elements.
3. "40 CFR §122" or "40 CFR §123" or "40 CFR §412" means the applicable Code of Federal Regulations (2008).
4. "CAFO" or "Confined animal feeding operation" as defined in [OAR 603-074-0010\(3\)](#) means:
 - (a) The concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms;
 - (i) In buildings or in pens or lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or
 - (ii) That have waste water treatment works; or
 - (iii) That discharge any wastes into waters of the state; or
 - (b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR §122.23.
5. "Director" means the director of the State of Oregon Department of Environmental Quality and the Department of Agriculture or their authorized designee(s).
 - (a) "Discharge" when used without qualification means the "discharge of a pollutant." "Discharge of a pollutant" is defined at [40 CFR §122.2](#).
6. "Frozen soil" means soil that has a soil temperature of 32° F (or 0° C) or less in any 3 continuous inches of the top 12 inches of soil.
7. "Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.
8. "Manure" means manure or other materials that come into contact with manure. Other materials include but are not limited to bedding, compost, litter, and raw materials.
9. "New source" as defined [40 CFR §122.2](#) means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced after April 14, 2003.
10. "Overflow" means the discharge of manure or process waste water resulting from the filling of waste water or manure storage structures beyond the point at which no more manure, process waste water, or storm water can be contained by the structure.
11. "Person" is defined at [OAR 603-074-0010\(13\)](#).
12. "Point source" is defined at [40 CFR §122.2](#).
13. "Pollutant" is defined at [40 CFR §122.2](#).
14. "Pollution" or "water pollution" is defined at [ORS 468B.005\(3\)](#).
15. "Process waste water" or "process wastes" means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing

pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process waste water or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

16. "Production area" means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment areas include but are not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of animal mortalities.
17. "Saturated soil" means soil with all available pore space filled that has reached its maximum retentive capacity as defined in "Qualitative Description of Soil Wetness" (Brady, N. and Weil, R., p. 201).
18. "State medium confined animal feeding operation" means a confined animal feeding operation that meets the animal numbers specified in any of the following categories:
 - (a) 200 to 699 mature dairy cattle, whether milked or dry;
 - (b) 300 to 999 veal calves;
 - (c) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (d) 750 to 2,499 swine each weighing 55 pounds or more;
 - (e) 3,000 to 9,999 swine each weighing less than 55 pounds;
 - (f) 150 to 499 horses;
 - (g) 3,000 to 9,999 sheep or lambs;
 - (h) 16,500 to 54,999 turkeys;
 - (i) 9,000 to 29,999 laying hens or broilers if the operation uses waste water control facilities for wet waste;
 - (j) 37,500 to 124,999 chickens (other than laying hens), if the operation uses waste water control facilities for wet waste;
 - (k) 25,000 to 81,999 laying hens if the operation does not use waste water control facilities for wet waste;
 - (l) 10,000 to 29,999 ducks if the operation does not use waste water control facilities for wet waste; or
 - (m) 1,500 to 4,999 ducks if the operation uses waste water control facilities for wet waste.

A state medium confined animal feeding operation is only required to apply for this permit if it confines for more than 4 months and has a waste water control facility or disposal system for wet or dry wastes.

19. "State small confined animal feeding operation" means a confined animal feeding operation with animal numbers below the state medium confined animal feeding operation levels that is not designated as a small concentrated animal feeding operation. A state small confined animal feeding operation is only required to apply for this permit if it confines for more than four (4) months and has a waste water control facility or disposal system for wet wastes.
20. "Wastes" is defined at [ORS 468B.005\(9\)](#).
21. "Waste storage facilities" means the physical system used for the isolation and retention of process wastes on the confined animal feeding operation until their ultimate utilization.
22. "Waste water control facility" means a "disposal system" or "treatment works" defined at [ORS 468B.005\(1\)](#).
23. "Water" or "waters of the state" is defined at [ORS 468B.005\(10\)](#).

S1. PERMIT COVERAGE

S1.A. When is a Permit Required?

1. Any person who owns or operates a *confined animal feeding operation (CAFO)* defined as follows is required to obtain coverage under this permit (see Table 1 below for more detail):
 - (a) *State small confined animal feeding operation* that confines animals for more than four (4) months and has a waste water control facility or disposal system for wet wastes.
 - (b) *State medium confined animal feeding operation* that confines animals for more than four (4) months and has a waste water control facility or disposal system for wet or dry wastes.
 - (c) *Small, medium, or large concentrated animal feeding operation* defined in [40 CFR §122.23](#).

Table 1: CAFOs Requiring State Permit Coverage

Type of confined animal feeding operation requiring state permit coverage	State Small Confined	State Medium Confined	Small Concentrated	Medium Concentrated	Large Concentrated
	<ul style="list-style-type: none"> • Confines for more than 4 months on prepared surface • Waste water control facility or disposal system for wet wastes 	<ul style="list-style-type: none"> • Confines for more than 4 months on prepared surface • Waste water control facility or disposal system for wet or dry wastes 	<ul style="list-style-type: none"> • Stabled or confined and fed or maintained for total of 45 days or more in any 12-month period • Crops, vegetation, forage growth, or post-harvest residues not sustained in normal growing season in lot or facility • Pollutants discharged to surface waters • Designated by the Director 	<ul style="list-style-type: none"> • Stabled or confined and fed or maintained for total of 45 days or more in any 12-month period • Crops, vegetation, forage growth, or post-harvest residues not sustained in normal growing season in lot or facility • Pollutants discharged to surface waters 	<ul style="list-style-type: none"> • Stabled or confined and fed or maintained for total of 45 days or more in any 12-month period • Crops, vegetation, forage growth, or post-harvest residues not sustained in normal growing season in lot or facility
mature dairy cows ¹	<200	200-699	<200	200-699	≥700
veal calves	<300	300-999	<300	300-999	≥1,000
cattle ²	<300	300-999	<300	300-999	≥1,000
swine ≥ 55 lbs	<750	750-2,499	<750	750-2,499	≥2,500
swine < 55 lbs	<3,000	3,000-9,999	<3,000	3,000-9,999	≥10,000
horses	<150	150-499	<150	150-499	≥500
sheep or lambs	<3,000	3,000-9,999	<3,000	3,000-9,999	≥10,000
turkeys	<16,500	16,500-54,999	<16,500	16,500-54,999	≥55,000
laying hens or broilers w/wet waste system	<9,000	9,000-29,999	<9,000	9,000-29,999	≥30,000
chickens ³ w/wet waste system	<37,500	37,500-124,999	<37,500	37,500-124,999	≥125,000
laying hens w/other than wet waste system	<25,000	25,000-81,999	<25,000	25,000-81,999	≥82,000
ducks w/other than wet waste system	<10,000	10,000-29,999	<10,000	10,000-29,999	≥30,000
ducks w/wet waste system	<1,500	1,500-4,999	<1,500	1,500-4,999	≥5,000

¹ Whether milked or dry.

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

³ Other than laying hens.

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

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

S1.B. Election of Permit Coverage

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

S1.C. Requirements and Schedule to Obtain Permit Coverage

1. Application for Proposed CAFO

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

2. Future Renewal of General Permit Coverage

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

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

- (a) The owner or operator's name;
- (b) Facility name and location;
- (c) Contact information, including mailing address and telephone number;
- (d) Effective date of permit coverage;
- (e) Maximum number of animals allowed at the facility; and
- (f) Regulatory status of the operation. ODA will use the following classifications for regulatory status:
 - (i) *Large concentrated AFO* as defined in 40 CFR §122.23(b)(4);
 - (ii) *Medium concentrated AFO* as defined in 40 CFR §122.23(b)(6);
 - (iii) *Small concentrated AFO* as designated by the director pursuant to [OAR 603-074-0012](#);
 - (iv) *State medium confined animal feeding operation* as defined in this permit (#18, p. 4); or
 - (v) *State small confined animal feeding operation* as defined in this permit (#19, p. 4).

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

(For information on AWMP requirements, see condition S3, p. 12.)

S1.D. What does this Permit Authorize?

1. This permit authorizes the discharge of only those pollutants resulting from the processes, wastes, and operations that have been clearly identified in the AWMP.
2. This permit does not cover activities or discharges presently covered by an individual NPDES or Water Pollution Control Facilities (WPCF) permit until the individual permit has expired or been cancelled and general permit coverage has been obtained. If appropriate, any person issued an individual permit may apply for coverage under this permit and request cancellation of the individual permit.
3. This permit does not cover disposal of human wastes or waste water control systems that mix human and animal wastes. Any person owning or operating such a system must apply to DEQ for coverage under an individual or general permit issued pursuant to [ORS 468B.050](#). This general permit may be used in addition to an individual or general permit issued by DEQ pursuant to [ORS 468B.050](#).

4. Except for any toxic effluent standards and prohibitions imposed under section 307 of the federal Clean Water Act (CWA) and groundwater protection requirements established under [OAR 340-040](#), a permittee in compliance with this permit during its term is considered to be in compliance, for purposes of enforcement, with state water quality laws and relevant sections of the CWA, as provided in [40 CFR §122.5](#). The specific effect of permit compliance on enforcement authority is set out in [OAR 340-045-0080](#).

S1.E. Request for Cancellation

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

S1.F. Individual Permit Coverage

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

S1.G. Request for Confidentiality

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

S1.H. Public Notice and Participation Requirement

1. Prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to an AWMP, ODA will provide public notice and participation as follows:

Permit Actions	Public Participation Process	Contents of Public Notice
(a) Receipt of ATR for existing operation not under permit or new proposed operation	(i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> • Published in regional newspaper; • Posted on ODA and DEQ websites; and • Emailed to interested parties list maintained by ODA. (ii) Opportunity for public hearing. See #4 below. (iii) A written response to relevant comments will be developed by ODA and made available to interested parties.	<ul style="list-style-type: none"> • Name of operation • Name of operator or owner if different than operator, mailing address, and telephone number • Physical address of operation • Type of operation • Number of animals proposed • Land Use Compatibility Statement (LUCS) • Summary of AWMP
(b) Receipt of renewal application	(i) Public notice of a comment period of at least 35 days provided as follows: <ul style="list-style-type: none"> • Posted on ODA and DEQ websites; and • Emailed to interested parties list maintained by ODA. (ii) Opportunity for public hearing. See #4 below.	<ul style="list-style-type: none"> • Name of operation • City, county, and zip code • Permit registration number • Type of operation • Action proposed (e.g., renewal or substantial modification)
(c) Receipt of proposed substantial modification (see S3.D.2, p. 13)	(ii) Opportunity for public hearing. See #4 below. (iii) A written response to relevant comments will be developed by ODA and made available to interested parties.	

2. ODA may batch multiple notices as regionally appropriate.
3. Application and permit documents (e.g., ATR, renewal application, AWMP) will be available for public review at ODA headquarters and appropriate field offices. If available, electronic copies of documents will be provided upon request.
4. Public hearings will be scheduled if written requests for public hearing are received during the comment period from at least ten persons or from an organization or organizations representing at least ten persons. If a hearing is scheduled, ODA will provide at least 14 days notice before the hearing is held. If a federal regulation is adopted to require more than 14 days notice, ODA will implement the federal requirement. The public comment period will remain open for additional comments for at least 10 days after the public hearing.

S2. DISCHARGE LIMITATIONS AND OPERATING REQUIREMENTS

S2.A. Discharge Limitations

The permittee is prohibited from discharging manure, litter, or process waste water to surface waters and groundwaters of the state, except as allowed in S2.B and S2.C and provided these discharges do not cause or contribute to a violation of state water quality standards. Discharges to surface waters due to upset or bypass are authorized only in accordance with applicable requirements in G17 Bypass [40 CFR §122.41(m)], p. 20 and G18Upset [40 CFR §122.41(n)], p. 21.

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

S2.B. Production Area Limitations

1. For confined animal feeding operations regulated by this permit, except new source swine, poultry, and veal large concentrated animal feeding operations:
The permittee is prohibited from discharging manure, litter, or process waste water to surface waters of the state, except when rainfall events cause an overflow of waste management and storage facilities designed, constructed, operated, and maintained to contain all manure, litter, and process waste water including the runoff and direct precipitation from a 25-year, 24-hour rainfall event.
2. For new source swine, poultry, and veal large concentrated animal feeding operations:
The permittee is prohibited from discharging manure, litter, or process waste water to surface waters of the state.
3. The permittee must properly land apply or otherwise handle authorized discharges from the production area in a way that minimizes impacts on surface water or groundwater of the state.
4. The permittee must not exceed the seepage design rates approved by ODA for waste storage or animal confinement facilities or violate state groundwater quality protection standards.

S2.C. Land Application Limitations

1. When applying manure, litter, or process waste water to lands, the permittee must apply at agronomic rates in accordance with the permittee's ODA-approved AWMP. Land application areas include land under the control of the permittee, whether it is owned, rented, or leased, to which manure, litter, or process waste water from the production area is or may be applied.
2. The permittee's applications of manure, litter, and process waste water must not exceed the capacity of the soil and crops to assimilate nutrients and minimize water pollution. These applications must be quantifiable and based on the NRCS Phosphorous Index, USDA/NRCS Oregon Agronomy Technical Note #26, revised October 2001, and must account for all other nitrogen and phosphorus sources .
3. The permittee's discharges to groundwater due to seepage below the root zone of the crop or by other means must not violate state groundwater quality protection standards.
4. The permittee is allowed to apply manure, litter, or process waste water to frozen soil provided: 1) its AWMP addresses such applications [see S3.C.3(k)], 2) discharge to surface waters of the state will not occur, except as allowed in S2.B and S2.C, and 3) land applications do not cause or contribute to a violation of state water quality standards.

5. The permittee is prohibited from applying manure, litter, or process waste water to saturated soils or during rainfall events that are expected to result in saturated soils or surface runoff. When such an application is a desired alternative to allowing waste storage or waste water control facilities to overflow (e.g., land application to saturated soils to pond waste water onsite provides for greater protection of surface waters than a direct overflow of a waste storage tank to surface waters), the land application will be considered an upset condition and the permittee must comply with the provisions of G18 Upset [40 CFR §122.41(n)], p. 21.

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

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

S2.E. Waste Storage Facilities

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

S2.F. Prevention of System Overloading

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

S2.G. Handling of Animal Mortalities

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

S2.H. Proper Operation and Maintenance

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

S2.I. Maintaining Compliance if System Fails

The permittee, in order to maintain compliance with the permit, 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. This requirement applies where the primary source of power is reduced, lost, or fails.

S2.J. Setback Requirement

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

1. Establish a 35-foot vegetated buffer where manure, litter, and other process waste waters are prohibited; or
2. Demonstrate that a setback or vegetated buffer is not necessary or may be reduced.

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

1. The permittee retains responsibility of the manure, litter, or process waste water until the transfer or export is completed with the required documentation.
2. The permittee must maintain manure, litter, or process waste water transfer or export records as required by S4.C(d), p.15.
3. Prior to transferring manure, litter, or process waste water to other persons, the permittee with a *large concentrated animal feeding operation* must provide the recipient of manure, litter, or process waste water with the a manure nutrient analysis conducted within the previous 12 months.

S3. ANIMAL WASTE MANAGEMENT PLAN

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

1. Upon receipt of notification by ODA or by February 27, 2009, whichever occurs first, the permittee must implement a current AWMP developed for its confined animal feeding operation.
2. The permittee with a confined animal feeding operation commencing operation after February 27, 2009 must implement an ODA-approved AWMP at the start of operation.
3. The permittee must comply with all terms and conditions of its approved AWMP. Failure to comply with the approved AWMP constitutes a violation of the terms and conditions of this permit.
4. Absence of an AWMP or absence of ODA approval of an AWMP does not allow the permittee to violate the provisions of S2 Discharge Limitations and Operating Requirements, p. 9 or other permit requirements.

S3.B. AWMP Submittal and Public Notice

1. The applicant proposing a new CAFO or electing coverage under this permit must submit its AWMP with the ATR to ODA for review and approval according to the schedule provided in S1.C, p. 6.
2. If necessary to meet the AWMP requirements in this permit, the existing permittee with coverage under the previous version of this general permit must submit a revised or updated AWMP by February 27, 2009 or date specified by ODA, whichever occurs first.
3. AWMPs are subject to public notice and participation requirements detailed in condition S1.H, p. 8.

S3.C. AWMP Elements

1. The permittee must ensure that its AWMP is adequate for the proposed or existing population of animals, reflective of the proposed or existing facility operation, and be prepared in accordance with the terms and conditions of this permit, [OAR 340-051](#), and NRCS conservation practice standard guidance 590 for Oregon dated May 2008 entitled *Nutrient Management*.
2. The AWMP may include a schedule for improvement projects.
3. The AWMP must to the extent applicable include the following:
 - (a) Procedures to ensure adequate collection, handling, and storage of manure, litter, and process waste water. Provide calculations used to determine that sufficient storage capacity exists.
 - (b) Procedures to ensure proper operation and maintenance of the storage facilities.
 - (c) Procedures to ensure proper management of animal mortalities to ensure that they are not disposed of in a liquid manure, storm water, or process waste water storage or treatment system that is not specifically designed to treat animal mortalities.
 - (d) Procedures to ensure that clean water is diverted, as appropriate, from the production area.
 - (e) Procedures to prevent direct contact of confined animals with surface waters.
 - (f) Procedures to ensure that chemicals and other contaminants handled on-site, are not disposed of in any manure, litter, process waste water, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants.
 - (g) Identification of appropriate site-specific conservation practices to be implemented, including as appropriate, buffers, setback areas, or equivalent practices, to control runoff of pollutants to surface water and groundwater.
 - (h) Protocols to land apply manure, litter, or process waste water in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process waste water. The protocols must include the following:
 - (i) Expected crop yields.
 - (ii) Calculations showing the total nitrogen and phosphorus to be applied annually to each field, including sources other than manure, litter, or process waste water.
 - (iii) Annual manure application rates and an explanation of the basis for determining these rates. For

large concentrated animal feeding operations, these rates must be based on actual test data. For other operations, data or “book values” from established reference sources (e.g., Oregon Animal Waste Management program) may be used instead of actual testing.

- (iv) Method(s) used to apply manure, litter, or process waste water.
- (i) For *large concentrated animal feeding operations*, protocols for appropriate testing of manure, litter, process waste water, and soil. For other operations, references used instead of actual testing data or test protocols if testing.
- (j) If applicable, an Agricultural Compost Management Plan as required by [OAR 340-096](#).
- (k) Frozen soil application procedures if applications of manure, litter, or process waste water will be made to frozen soil. At a minimum, the following must be provided:
 - (i) Description of the potential receiving field(s), estimates of waste amounts and types, and estimated timing of applications.
 - (ii) Aerial photo(s) identifying all areas and surface water bodies within 1,000 ft. of the boundaries of the receiving field(s).
 - (iii) Soil map(s) identifying soil types for receiving field(s).
 - (iv) Topographic map(s) for receiving field(s).
 - (v) Description of the structural practices in place to ensure that no discharges to surface water occur during application and after the soil thaws.
 - (vi) Description of the method used to determine when soil is frozen and management practices to be followed when planning an application and during and after an application to frozen soil.
 - (vii) Description of monitoring and reporting requirements to ensure that the permittee is in compliance with frozen soil application procedures.
- (l) Procedures for transfer or export of manure, litter, or process waste water.
- (m) Identification of specific records that will be maintained to document the implementation and management of the minimum elements described above.

S3.D. AWMP Updates and Changes

1. The permittee must update its AWMP when facility expansions, production increases, or process modifications will:
 - (a) Result in new or increased generation of waste, litter, or process waste water beyond the scope of the current AWMP, or
 - (b) Violate the terms and conditions of this permit.
2. The permittee must submit substantial changes to its AWMP to ODA for approval at least 90 days before implementation unless a different schedule is allowed by ODA in writing. Substantial changes are also subject to public notice and participation requirements detailed in condition S1.H, p. 8. Substantial changes to an AWMP include:
 - (a) An increase in animal number that is greater than 25% of the maximum number assigned by ODA in the permittee’s *Notice of Registration and General Permit Summary*.
 - (b) A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.
3. The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by ODA in the *Notice of Registration and General Permit Summary* until an updated AWMP is approved in writing by ODA.

S4. MONITORING, INSPECTION, RECORDKEEPING, AND REPORTING REQUIREMENTS

S4.A. Monitoring Requirements

1. Discharge Monitoring

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

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

2. Analytical Monitoring

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

(a) Large concentrated animal feeding operations

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

(b) Other confined animal feeding operations

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

S4.B. Inspection Requirements

1. The permittee must conduct the following inspections:

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

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

S4.C. Recordkeeping and Availability Requirements

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

Item or Parameter	Large Concentrated	Other Operations
(a) Date, amount, and nutrient loading of manure, litter, or process waste water applied to each field.	Required	Required
(b) Weather conditions at the time of application and 24 hours before and after application.	Required	Not required
(c) Total amount of nitrogen and phosphorus actually applied annually to each field, including documentation of calculations of the total amount applied.	Required	Required
(d) Total amount of manure or waste water transferred or exported to other persons.	Required. Also include: (i) Date and amount of each transfer or export (ii) Name and address of each recipient (iii) Copy of the manure nutrient analysis conducted provided to the recipient [see S2.K.3, p. 11]	Required
(e) Description of actions taken to correct deficiencies discovered during inspections.	Required (see S4.B.2, p. 15)	Not required

S4.D. Reporting Requirements1. 24-hour Reporting

- (a) If a discharge to surface water or groundwater occurs that is not allowed by S2.B and S2.C, p. 9, the permittee must notify ODA within 24 hours of the discharge. The permittee must submit a written report within five (5) days to ODA. The information to be submitted is listed in the monitoring requirements (see S4.A, p. 14 above) of this permit.
- (b) The permittee must report to ODA within 24 hours of becoming aware of any significant physical failure at any time of a waste water control facility required under this permit.

2. Annual Report

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

S4.E. Additional Monitoring

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

GENERAL CONDITIONS

G1. Noncompliance reporting requirements

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

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

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

- (i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g) or condition G17, p.20.)
 - (ii) Any upset which exceeds any effluent limitation in the permit. (See §122.41(n) or condition G18, p. 21.)
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the director in the permit to be reported within 24 hours. (See §122.44(g) or .)
 - (c) The director may waive the written report on a case-by-case basis for reports under paragraph G2.6(b) of this section if the oral report has been received within 24 hours.
7. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs G2.4, 5, and 6 of this section, at the time monitoring reports are submitted. The reports must contain the information listed in paragraph G2.6 of this section.
8. *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

G3. Permit registration modification or revocation

1. After notice, registration under this permit may be modified or revoked as it applies to any person for cause as follows:
 - (a) Violation of any terms or conditions of the permit,
 - (b) Failure of the permittee to disclose fully all relevant facts, or misrepresentations of any relevant facts by the permittee during the permit issuance process and during the life of the permit;
 - (c) Failure to pay permit fees when due;
 - (d) Information indicating that the permitted operation poses a threat to human health or welfare;
 - (e) A change in ownership or control of the operation, or
 - (f) Other causes listed in 40 CFR §122.62 and 122.63.
2. Modification or revocation of coverage under this permit as it applies to any person may be initiated by ODA.
3. Issuance of coverage under an individual permit may be initiated by ODA in accordance with Condition S1.E.

G4. Duty to comply [40 CFR §122.41(a)]

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

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

3. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

G5. Compliance with other laws and statutes

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

G6. Property rights [40 CFR §122.41(g)]

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

G7. Duty to reapply

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

G8. Need to halt or reduce activity not a defense [40 CFR §122.41(c)]

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

G9. Duty to mitigate [40 CFR §122.41(d)]

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

G10. Proper operation and maintenance [40 CFR §122.41(e)]

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

G11. Permit actions

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

G12. Change of Ownership or Control

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

G13. Duty to provide information [40 CFR §122.41(h)]

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

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

G14. Inspection and entry [40 CFR §122.41(i)]

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

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

G15. Monitoring and records [40 CFR §122.41(j)]

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

G16. Signatory requirement [40 CFR §122.21(k)]

1. All applications, reports, or information submitted to the director shall be signed and certified. (See §122.22)
2. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

G17. Bypass [40 CFR §122.41(m)]

1. *Definitions.*
 - (a) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
 - (b) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs G17.3 and 4 of this section.
3. *Notice*
 - (a) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
 - (b) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in paragraph G2.6 of this section (24-hour notice).
4. *Prohibition of bypass.*

- (a) Bypass is prohibited, and the director may take enforcement action against a permittee for bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The permittee submitted notices as required under paragraph G17.3 of this section.
- (b) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed above in paragraph G17.4(a) of this section.

G18. Upset [40 CFR §122.41(n)]

1. *Definition.* *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph G18.3 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
3. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated; and
 - (c) The permittee submitted notice of the upset as required in paragraph G2.6(b)(ii) of this section (24 hour notice).
 - (d) The permittee complied with any remedial measures required under paragraph G9 of this section.
4. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.