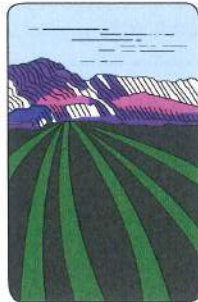


Proposed April 2, 2014
Finalized October 1, 2015

State of Oregon
Confined Animal Feeding Operation Permit Program

CAFO WPCF General Permit #01-2015

Evaluation Report and Fact Sheet



Oregon
Department
of Agriculture



State of Oregon
Department of
Environmental
Quality

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Table of Contents

1	Overview	1
1.1	Proposed and final permit actions	1
1.2	Why are ODA and DEQ proposing the issuance of a new WPCF General Permit?	1
1.3	Types of CAFOs that are required to obtain general permit coverage	2
1.4	Election of permit coverage.....	2
1.5	WPCF general permit	3
1.6	When an individual permit necessary.....	4
1.7	Permitting options in designated groundwater management areas	4
2	CAFO Activities and Pollutants.....	4
2.1	Regulated Activities	4
2.2	Potential Pollutants from CAFO Activities	5
2.3	Estimate of CAFO Manure, Litter, and Process Wastewater	5
3	Renewal Application Process	5
3.1	The renewal process for NPDES General Permit #01 allows existing permit registrants to change to the new WPCF General Permit #01	5
3.2	Renewal Application for WPCF General Permit #01.....	5
3.3	ODA Public Notice of Renewal Applications for WPCF General Permit #01.....	6
3.4	Notification to applicant of permit coverage	6
4	New Application Process	6
4.1	New Applications: Application to Register (ATR)	6
4.2	Notification to applicant of permit coverage	6
5	Discussion of WPCF General Permit #01	7
5.1	Permit Outline	7
5.2	Definitions	7
5.3	Special Conditions: S1. Permit Coverage.....	7
5.4	Special Conditions: S2. Discharge Limitations and Prohibitions.....	9
5.5	Special Conditions: S3. Animal Waste Management Plan.....	13
5.6	Special Conditions: S4. Monitoring, Inspection, Recordkeeping, and Reporting Requirements	14
5.7	General Conditions.....	16

List of Tables

Table 1: Classification of CAFOs that require coverage by WPCF General Permit #01-2015	2
Table 2: WPCF General Permit	3
Table 3: Inspection Requirements.....	14
Table 4: Recordkeeping Requirements	15

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1 Overview

1.1 Proposed and final permit actions

Oregon's confined AFO program is jointly administered by DEQ and ODA. The Legislature established responsibilities for ODA to exercise its authority as an agent of DEQ through a legislatively authorized agreement with the Environmental Quality Commission. The terms "Director" and "Agency" refer to both the Oregon Department of Environmental Quality (DEQ) and the State Department of Agriculture (ODA).

ODA and DEQ proposed on April 2, 2014 to issue a new Water Pollution Control Facilities (WPCF) General Permit #01. Following the end of the public comment period on May 30, 2014 and after addressing public comment, ODA and DEQ issued the WPCF general permit #01-2015 on October 1, 2015.

WPCF General Permit #01-2015 regulates CAFOs that discharge to groundwater of the state or, depending on size, confine animals for more than 120 days in any 12 months and/or have treatment works for dry or wet waste. This WPCF general permit will expire within ten years of permit issuance September 30, 2025. Many of the CAFOs currently regulated under National Pollutant Discharge Elimination System (NPDES) General Permit #01 are eligible for coverage under this permit.

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

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

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

1.2 Why are ODA and DEQ proposing the issuance of a new WPCF General Permit?

In Oregon, a state permit is required by Oregon Revised Statute (ORS) 468B.050 and 468B.215 for the protection of groundwater, as well as, surface water of the state. In 2003, ODA and DEQ issued NPDES CAFO General Permit #01 to cover CAFOs throughout the state regardless of whether discharge to surface waters occurred. ODA and DEQ initially chose this approach to administer the general permit process while federal rules for concentrated animal feeding operations were being challenged.¹ In 2012, however, the U.S. Environmental Protection Agency (EPA) completed their rule revision effective July 30, 2012 (77 FR 44494) clarifying that an NPDES permit is only required for animal feeding operations when pollutants are discharged to waters of the U.S. (most

surface waters). As a result, ODA and DEQ determined that a WPCF general permit has to be available for CAFOs that do not discharge to surface water of the state.

1.3 Types of CAFOs that are required to obtain general permit coverage

Table 1 on pages 2 and 3 is a list of the types of CAFOs that are covered by this WPCF general permit. Briefly, the WPCF permit covers the following:

- CAFOs that discharge to groundwater and, depending on size, confine animals for more than 120 days and/or have treatment works for wet or dry wastes require permit coverage
- CAFOs may also require permit coverage as determined at the discretion of the Director. A determination will be made after an on-site visit and consideration is given to:
 - The size of the animal feeding operation and the amount of wastes reaching groundwater;
 - The location of the animal feeding operation relative to groundwater;
 - Other relevant factors

Note: Any CAFO may elect to be covered by a WPCF general permit as discussed further below.

1.4 Election of permit coverage

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

Table 1: Classification of CAFOs that require coverage by WPCF General Permit #01-2015

Type of CAFO	<i>Small</i>	<i>Medium</i>	<i>Large</i>
	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period with a wet waste treatment works, or • Discharging to groundwater of the state. 	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period, or • With a wet or dry waste treatment works, or • Discharging to groundwater of the state. 	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period, or • With a wet or dry waste treatment works, or • Discharging to groundwater of the state.
mature dairy cows ¹	<200	200-699	≥700
veal calves	<300	300-999	≥1,000
cattle ²	<300	300-999	≥1,000
swine ≥ 55 lbs	<750	750-2,499	≥2,500
swine < 55 lbs	<3,000	3,000-9,999	≥10,000
horses	<150	150-499	≥500
sheep or lambs	<3,000	3,000-9,999	≥10,000
turkeys	<16,500	16,500-54,999	≥55,000
chickens, including laying hens or broilers	<9,000	9,000-29,999 (wet waste treatment works)	≥30,000 (wet waste treatment works)
laying hens		25,000-81,999 (layers, dry waste treatment works)	≥82,000 (layers, dry waste treatment works)
broiler chickens		37,500-124,999 (broilers, dry waste treatment works)	≥125,000 (broilers, dry waste treatment works)

	<i>Small</i>	<i>Medium</i>	<i>Large</i>
Type of CAFO	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period with a wet waste treatment works, or • Discharging to groundwater of the state. 	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period, or • With a wet or dry waste treatment works, or • Discharging to groundwater of the state. 	<ul style="list-style-type: none"> • Confines for more than 120 days in any 12 month period, or • With a wet or dry waste treatment works, or • Discharging to groundwater of the state.
ducks	<1,500	1,500-4,999 (wet waste treatment works)	≥5,000 (wet waste treatment works)
		10,000-29,999 (dry waste treatment works)	≥30,000 (dry waste treatment works)
other animal type ³	Determined by director.	Determined by director.	Determined by director.

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

1.5 WPCF general permit

Table 2 is a summary of basic permit requirements.

Table 2: WPCF General Permit

	WPCF General Permit #01-2015
Permit Coverage	<p><u>Required:</u> CAFOs that discharge to groundwater or, depending on size, confine for more than 120 days in any 12 month period and/or have treatment works. For more detail, see Table 1: Classification of CAFOs that require coverage by WPCF General Permit #01-2015 pp. 2 and 3 (or Table 1 in the permit).</p> <p><u>Elective:</u> CAFOs that are not required to obtain WPCF permit coverage may elect coverage under this permit.</p>
Application to Register (ATR)	An application to register includes an animal waste management plan, land use compatibility statement and fees. New or updated animal waste management plans are required to be submitted with the application. An animal waste management plan that is on file with ODA can be used to fulfill application requirements, as long as an applicant certifies on the application form that the animal waste management plan on file reflects their current operation. ODA will review an animal waste management plan prior to assignment to the permit.
Public Notice for application	New applications for large CAFOs not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit are subject to public notice requirements.
Discharge Limitations and Operating Requirements	Prohibits discharge to surface water. Discharges to groundwater must be prevented and only allowed in certain circumstances provided groundwater quality protection standards are met.
Animal Waste Management Plan	Once a permit is assigned, public notice of AWMP updates or changes is not required. Updates to plans must be submitted to ODA for approval at least 45 days before the facility expansion, production increases, or process modification is to be implemented unless a different schedule is allowed by ODA in writing.
Monitoring, Inspection, Recordkeeping, and Reporting Requirements	Records are required to be kept on monitoring, inspection, and reporting. Reporting requirements include 24-hour notification to ODA followed by a

	<p>written report for prohibited discharge to surface water or groundwater; in addition, Oregon Emergency Response system must be notified, when an unauthorized discharge may contact a drinking water system intake.</p> <p>Records are required to be available for inspection. An annual report is not required.</p>
General Conditions	<p>Bypass and upset provisions in general conditions from NPDES General Permit #01 are included in this WPCF general permit. Other general conditions are specific to state requirements.</p>

1.6 When an individual permit necessary

The majority of CAFOs in Oregon will be sufficiently regulated under either a NPDES General Permit or WPCF General Permit. The ODA or DEQ Director, however, may decide that a particular operation must obtain an individual permit. Any owner or operator of a CAFO with a WPCF General Permit #01 may also request issuance of an individual permit. Pursuant to OAR 340-045-0033(10) and S4.E on page 15 of the permit, situations when an individual permit may be required include:

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

1.7 Permitting options in designated groundwater management areas

ODA expects that a majority of these operations will be adequately regulated by either the NPDES or WPCF general permit. In situations where a CAFO might affect groundwater quality, additional monitoring requirements or management practices may be required by ODA as allowed by permit condition S4. E Additional Monitoring or an individual permit may be required by ODA.

More information on groundwater management areas can be found at the following Water Quality Groundwater Protection web page <http://www.deq.state.or.us/wq/groundwater/gwmas.htm>.

2 CAFO Activities and Pollutants

2.1 Regulated Activities

The WPCF general permit regulates management of manure, litter, and process wastewater from CAFO activities. CAFO activities include the confinement of animals for meat, milk, or egg production and the stabling of animals in pens, barns, or houses where the animals are fed or maintained at the place of confinement. Generally, animals are in confined areas along with their feed and manure. Examples of process wastewater and wastes include:

- Spillage or overflow from animal watering systems that comes into contact with manure, litter or bedding;
- Water from washing, cleaning, or flushing of pens, barns, manure pits, or other CAFO facilities;

- Water from direct contact washing or spray cooling of animals;
- Water from dust control;
- Washing and cleaning of the milking system and waste milk;
- Washing and cleaning of the cheese making system;
- Washing and cleaning of eggs and egg sorting and packaging equipment and
- Any water that comes into contact with raw materials, products, or byproducts including manure, litter, feed, milk, or bedding.

2.2 Potential Pollutants from CAFO Activities

The most common pollutants found in manure, litter, and process wastewater from CAFOs that can impact groundwater include nutrients (nitrogen and phosphorous compounds), and bacteria. While CAFO manure, litter, and process wastewater may be used beneficially as fertilizer, pollutants can be harmful to groundwater if applied on crops in excess of recommended agronomic rates or discharged directly to groundwater in the event of a spill or application near wells.

High nitrate levels and bacteria in drinking water can be harmful to humans. Bacteria, viruses, and parasites found in animal waste can increase the risk of waterborne diseases. Fecal coliform and *E. coli* are types of bacteria that are commonly used as biological indicators to assess whether there is a threat to public health.

2.3 Estimate of CAFO Manure, Litter, and Process Wastewater

As of January 2014, 524 animal operations are registered to CAFO NPDES General Permit #01-2009. They include 316 dairy and dairy heifer, 38 poultry, 112 beef, and 58 other operations. ODA estimates that these CAFOs generate approximately 10 million tons of waste on a yearly basis. Based on renewal applications, ODA anticipates that a majority of CAFOs currently registered to NPDES General Permit #01-2009 will maintain their coverage under the NPDES general permit and a fewer number of CAFOs will renew their coverage under the WPCF permit. ODA expects that new smaller CAFOs will register under the WPCF general permit. The number of CAFOs in Oregon and the amount of waste generated by these CAFOs are not expected to change.

3 Renewal Application Process

3.1 The renewal process for NPDES General Permit #01 allows existing permit registrants to change to the new WPCF General Permit #01

Only CAFOs that actually discharge into surface water are required to apply for NPDES permits. (see EPA CAFO Rule History- 2012 Final CAFO Rule at [Concentrated Animal Feeding Operations \(CAFO\) - Final Rule | Animal Feeding Operations | US EPA](#))

Renewal applications sent to NPDES general permit #01 registrants included an option to renew their coverage under the WPCF general permit. Permit registrants with administratively extended permit coverage may continue to operate under the existing permit until they receive notification from ODA that they qualify for coverage and have been registered to the WPCF general permit.

3.2 Renewal Application for WPCF General Permit #01

The renewal process for WPCF General Permit #01 will likely be similar to the current process for NPDES General Permit #01; however, ODA may develop a different renewal application and application timeframe for the WPCF General Permit #01.

3.3 ODA Public Notice of Renewal Applications for WPCF General Permit #01

New applications for large CAFOs are subject to public notice requirements. For WPCF General Permit #01, new applications will only be noticed for large CAFOs that are not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit. See permit condition S1.H of the WPCF permit. NPDES general permit registrants currently assigned permit coverage under NPDES general permit #01 went through public notice as part of their registration process to the NPDES permit. NPDES permit registrants that choose to renew their permit coverage under the WPCF permit will not go through a public notice prior to being assigned to this WPCF permit.

3.4 Notification to applicant of permit coverage

ODA will notify the applicant when permit coverage is approved or denied. See 4.2 Notification to applicant of permit coverage, p. 6 of this document for more detail.

4 New Application Process

4.1 New Applications: Application to Register (ATR)

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

- (a) Legal name and address of applicant and name of owner, if different.
- (b) Information about the corporate structure of the applicant and owner.
- (c) Facility information, including name, address, and latitude and longitude of production area or entrance to production area.
- (d) Identity of receiving streams.
- (e) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area.
- (f) Specific information about the number and type of animals, whether in open confinement and/or housed under roof (for example, beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other).
- (g) The type of containment and storage (for example, anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons).
- (h) The total number and location of acres under control of the applicant that is available for land application of manure, litter, or process wastewater.
- (i) Estimated amount of manure, litter, and process wastewater generated per year.
- (j) Estimated amount of manure, litter, and process wastewater transferred to other persons per year (tons/gallons).
- (k) Whether the animal waste management plan (AWMP) is new, updated or current and on file.

4.2 Notification to applicant of permit coverage

ODA proposes to notify applicants when WPCF general permit coverage is granted. This notification would consist of the following:

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

- (b) *Oregon CAFO General Permit Summary*
 - A summary of permit terms and permit conditions to be used as a quick reference guide.
- (c) Copy of the general permit.

5 Discussion of WPCF General Permit #01

5.1 Permit Outline

The WPCF General Permit #01 is organized as follows:

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

5.2 Definitions

Definitions are similar to those used in the NPDES general permit but there are differences necessary for a state WPCF permit. For example, there are no references to federal regulations and the definition of waters of the U.S. has been deleted.

The terms 'dry waste treatment works' and 'wet waste treatment works' are now separate definitions from the definition of 'treatment works' in this section. Dry waste treatment works may include but are not limited to manure piles and covered dry manure stack storage facilities. Generally, treatment works for wet wastes includes the parts necessary to manage the waste, as liquid materials require collection, storage, transfer, and application with specific structures and appurtenances.

Definitions for *agency*, *agronomic application rate*, *bedding*, *dry waste*, *dry-weather discharge*, *OAR*, *ORS*, and *wet waste* are included for clarity.

5.3 Special Conditions: S1. Permit Coverage

S1.A Required Coverage

As discussed earlier, CAFOs that are no longer required or elect to apply for the NPDES general permit but discharge to groundwater or, depending on size, confine animals for more than 120 days and/or have wastewater control facilities may register under the new WPCF General Permit #01. For more information on the CAFOs covered by this permit, see Table 1: Classification of CAFOs that require coverage by WPCF General Permit #01-2015 pp. 2 and 3.

S1.B Elective coverage under this permit

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

S1.C Applying for permit coverage

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

S1.D Transferring permit coverage to a new owner or operator

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

S1.E Activities covered by this permit

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

S1.F Canceling permit coverage

Condition S1.F.1 contains written requirements and situations that apply to cancellation of WPCF general permit coverage.

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

Condition S1.F.1 contains requirements for cleaning and repurposing or decommissioning of waste storage and control facilities.

S1.G Confidentiality of information

This section cites an Oregon statute relating to public requests for records relating to registrations under the permit. Under ORS 192.420 most records, reports or information submitted to the agencies relating to this permit will become public records for purposes of records request. Trade secrets may be protected from disclosure as provided in ORS 468.095(2).

S1.H Public notice requirements of this permit

Applications submitted by large CAFOs that have not been previously permitted are subject to public notice. ODA may batch multiple notices as regionally appropriate. Application and permit documents (for example, ATR, renewal application, AWMP) will be available for public review at ODA headquarters and appropriate field offices. If available, electronic copies of documents will be provided on request. Public hearings will be scheduled if written requests for public hearing are received during the comment period from at least ten persons or from an organization or organizations representing at least ten persons. ODA will provide a minimum of 30 days notice of a hearing if one is scheduled and the public notice period will remain open for additional comments for at least 7 days after the public hearing.

The WPCF general permit is a state permit and federal requirements to notice AWMPs do not apply. ODA and DEQ do not require public notice for all CAFOs seeking coverage under a WPCF permit. Because they are smaller operations, new and medium small CAFOs are considered a lower risk for impacts to groundwater. However, new medium and small CAFOs will receive the same evaluation of their design, construction, operation and maintenance components as a large CAFO to ensure that there will be no discharge to surface water and protections for groundwater.

5.4 Special Conditions: S2. Discharge Limitations and Prohibitions

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

S2.A Discharge Limitations

The WPCF general permit does not allow discharge of manure, litter, or process wastewater to surface water and discharge to groundwater is only allowed as detailed in S2.B and S2.C.

OAR 340-040-0020 requires that groundwater pollution be prevented and waste discharges to groundwater controlled so that the highest possible water quality is maintained. The issuance of WPCF General Permit #01 is consistent with this policy because the permit requires management of land application is at agronomic rates consistent with an animal waste management plan that is a part of this permit and the permit prohibits discharge to groundwater in violation of state groundwater quality protection standards.

Under OAR 340-041-0350(8)(b), ODA and DEQ may also issue WPCF permits for CAFOs provided no waste is discharged to surface water and groundwater quality protection requirements of OAR 340-040-0030 are met. WPCF General Permit #01 meets these requirements.

S2.B Production Area Limitations

This permit requires that the permit registrant ensure that the production area is designed, constructed, operated, and maintained to prevent the discharge of manure, litter, process wastewater including contaminated stormwater from discharging to surface waters of the state. At a minimum, the production area must be designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including contaminated stormwater generated during the storage period established in the ODA-approved AWMP.

CAFOs are prohibited from discharging manure, litter, and process wastewater from their production areas to surface water except when rainfall events cause an overflow of waste management and storage facilities designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including the contaminated runoff and direct precipitation from a 25-year, 24-hour rainfall event (defined by the National Weather Service). This means that if a facility is designed, constructed, operated, and maintained according to these requirements, a discharge from the facility would not automatically be a permit violation. However, if the facility is designed correctly but not properly managed, such a discharge may be considered a permit violation. As a result, operators must be vigilant in assuring that the waste management system is adequate and operating properly to comply with permit conditions.

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

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

S2.C Land Application Limitations

The permit requires the following: application of wastes at agronomic rates; discharges to groundwater due to seepage beyond the root zone in compliance with groundwater standards; and applications to frozen soil only under certain conditions.

Application of nutrients at the agronomic application rate minimizes leaching of soluble nutrients below the root zone. The agronomic application rate may be calculated for multi-year or multi-crop systems.

There is a prohibition on the application of wastes immediately before or during rainfall events that are expected to result in saturated soils or surface runoff.

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

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

S2.E Waste Storage Facilities

The general permit requires the following:

- Adequate storage capacity for solid and liquid wastes at all times so that land application occurs only during periods when soil and weather conditions allow for agronomic application and are in compliance with the Land Application Limitations in permit condition S2.C.
- The permit registrant must site, design, construct, operate, and maintain all waste storage facilities consistent with its ODA-approved AWMP. New and modified construction of waste facilities must be approved in advance and prior to construction by ODA in conformance with ORS 468B.055 and OARs 340-051 and 603-074
- For large operations, depth markers in all surface impoundments to indicate the maximum design volume, minimum capacity necessary to contain the 25-year, 24-hr rainfall event, and the depth of manure and process wastewater.

The permit registrant with a *large* CAFO must also have depth markers in all surface liquid impoundments (for example, lagoons, ponds, tanks) designed to clearly indicate the:

- Maximum design volume.
- Depth of manure and process wastewater.
- Minimum capacity necessary to contain the quantity applicable to the storage period in the ODA-approved AWMP.

More Information on Design and Construction Standards

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

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

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

S2.F Prevention of System Overloading

The permit registrant may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by ODA in the *Notice of Registration and General Permit Summary* until an updated plan is approved in writing by ODA. In addition, the permit registrant must ensure that the animal numbers do not exceed the capacity of the waste storage facilities or the maximum number of animals authorized under the permit holder's registration by ODA.

S2.G Handling of Animal Mortalities

This section prohibits the disposal of animal mortalities in liquid manure or wastewater control facilities. It also requires the permit registrant to handle animal mortalities in such a way as to prevent discharge of pollutants to surface water or groundwater.

S2.H Proper Operation and Maintenance

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

S2.I Maintaining Compliance if System Fails

The permit registrant must control all applications and discharges upon reduction, loss, or failure of the waste storage or utilization facilities until the facilities are restored or an alternative method of storage or utilization is provided. The former requirement that this condition applies only when the primary source of power is reduced, lost, or fails was

removed because ODA and DEQ believe that the permit registrant should control application and discharges regardless of whether the reduction, loss, or failure of facilities is due to a loss of power or some other condition.

S2.J Setback Requirement

This condition contains minimum setback requirements and clarifies when ODA will consider alternatives. The land application setback requirements are the same technology based standards required by federal NPDES CAFO regulations in 40 CFR 412.4(c)(5).

S2.K Manure, Litter, or Process Wastewater Transfers

For manure, litter, or process wastewater transfers, the permit requires:

- the permit registrant to retain responsibility of the manure, litter, or process wastewater until the transfer or export is completed with the required documentation;
- the permit registrant to maintain the records as specified in permit condition S4.C.; and
- that the permit registrant with a large CAFO provide the recipient of manure, litter, or process wastewater with a nutrient analysis from the previous 12 months prior to the transfer.

S2.L Proper Disposal of Other Wastes

The general permit requires proper disposal of wastes other than manure, litter, and process wastewaters. The requirement was revised for clarification to expressly require proper disposal in accordance with applicable state regulation, prohibit the use of treatment and storage systems that are not designed to handle such wastes, and prohibit the use of systems designed for control of uncontaminated stormwater.

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

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

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

- Oregon State Fire Marshall <http://www.oregon.gov/OSP/SFM/pages/index.aspx>
- Oregon Department of Agriculture <http://www.oregon.gov/ODA/Pages/default.aspx>

5.5 Special Conditions: S3. Animal Waste Management Plan

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

This general permit :

- Requires the permit registrant to implement its ODA-approved AWMP;
- Incorporates the ODA-approved AWMP into the permit by reference;
- Requires the permit registrant to comply with its ODA-approved AWMP; and
- Informs the permit registrant that the absence of an AWMP or absence of ODA approval of its AWMP does not allow the permit registrant to violate other permit requirements.

S3.B *AWMP Submittal and Public Notice*

New AWMPs for large CAFOs not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit are subject to public notice requirements.

S3.C *AWMP Elements*

An ODA approved animal waste management plan is required for permit coverage. Both the NPDES General Permit #01 and WPCF General Permit #01 have the same requirements for AWMPs. ODA will continue to accept and review plans from NRCS-certified Comprehensive Nutrient Management Plan (CNMP) writers.

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

The level of detail of information required in AWMPs will depend on the size, complexity, and other specifics of each CAFO, and the need for additional or alternative information in an AWMP will continue to be established by ODA on a case-by-case (i.e. permit-by permit) basis, as required as part of a separate corrective order or to account for extraordinary circumstances.

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

S3.D *AWMP Updates*

This section explains requirements for AWMP updates. Public notice is not required for AWMP modifications. This is a state permit and federal requirements to provide public notice for substantial changes to AWMPs do not apply. Public notice of changes to these AWMPs would be an additional resource burden to ODA and ODA and DEQ believe such notice is not required because discharge to surface waters is prohibited so that CAFOs covered by this permit are at a lower risk of endangering the public and environment.

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

S4.A Monitoring Recordkeeping and Reporting Requirements

Monitoring of Prohibited Discharges

The monitoring requirements include the following:

- Any discharge or runoff that is not allowed by the permit must be recorded and reported to ODA.
- The record must contain a description and cause of the discharge; the period of discharge, including exact dates, times, and duration of discharge; an estimate of the volume of the discharge; name or location of receiving water, and corrective steps taken to reduce, eliminate or prevent recurrence.
- Condition S4.D. requires a written report to be submitted to ODA within five (5) days.

Soil, Manure, Litter, and Process Wastewater Monitoring

Information on the specific parameter to be analyzed and references to sample method are contained in this permit. Soil sampling analytical requirements include analysis of Nitrate Nitrogen. The minimum frequency of analytical monitoring for large CAFO is annually on a minimum of 20% of all fields where manure, litter, or process wastewater is applied and all fields must be sampled once every 5 years. The requirements are designed to provide the CAFO with information to assist in the development and evaluation of application rates required in the AWMP.

S4.B Inspection Requirements

Inspections are required as follows:

Table 3: Inspection Requirements

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

Any deficiencies found as a result of these inspections must be corrected as soon as possible. The permit registrant with a *large* CAFO must also record the actions taken to correct these deficiencies and, if deficiencies are not corrected within 30 days, provide an explanation of the factors preventing immediate correction.

S4.C Recordkeeping and Availability Requirements

All required records must be kept and maintained at the facility for a period of five years and must be available to the agency upon request. The following recordkeeping is required:

Table 4: Recordkeeping Requirements

Item or Parameter	Large CAFO	All Other Operations
(a) Date, amount, and nutrient loading of manure, litter, or process wastewater applied to each field.	Required	Required
(b) Weather conditions at the time of application and 24 hours before and after application.	Required	Not required
(c) Total amount of nitrogen and phosphorus actually applied annually to each field, including documentation of calculations of the total amount applied.	Required	Required
(d) Total amount of manure or wastewater transferred or exported to other persons.	Required. Also include: (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.10 of permit)	Required
(e) Description of actions taken to correct deficiencies discovered during inspections.	Required (See S4.B.2, p. 14 of permit)	Not required

S4.D Reporting Requirements

WPCF General Permit #01 does not allow discharges to surface water. The permit registrant is required to notify ODA within 24 hours of any discharge to surface water or groundwater that is not allowed by the permit and submit a written report within five days to ODA.

The permit registrant must also report to ODA within 24 hours of becoming aware of any significant physical failure at any time of a wastewater control facility required under this permit. The permit registrant is also required to notify ODA within 24 hours and provide a written report within five (5) days of any permit noncompliance that may endanger public health or the environment. Condition S4.D is amended to include a requirement for a permit registrant to contact Oregon Emergency Response System (OERS) by calling 1-800-452-0311 and notify OERS of a discharge to groundwater or surface water that may come in contact a drinking water system intake.

While annual reporting is not required, anticipated noncompliance and unauthorized discharges, including any discharge to surface water, are required to be reported. The permit registrant is also required to make the information required by the permit available to ODA upon request.

S4.E Additional Monitoring

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

5.7 General Conditions

General conditions address compliance with other laws and statutes, property rights, permit actions, permit fees, inspection and entry, and signatory requirements. ODA and DEQ included bypass and upset general conditions from the NPDES general permit in the WPCF general permit to provide additional direction to CAFOs registered under the WPCF general permit should such situations occur.

A statement has been added to this section to clarify that the general conditions in this schedule apply only to the extent they do not conflict with the requirements contained in special conditions S1 through S4. If the permit requirements in special conditions S1 through S4 conflict with these general conditions, the permit requirements in special conditions S1 through S4 will control

ⁱ. A recent court decision *National Pork Producers Council v. EPA*, 635 F.3d 738, 756 (5th Cir. 2011) and subsequent July 30, 2012 final EPA rule only requires an NPDES permit for discharges to surface water not a potential to discharge to surface water. For more information, refer to EPA CAFO rule history web page at <http://water.epa.gov/polwaste/npdes/afo/CAFO-Regulations.cfm>.