

Statement of Basis

FACILITY: Glendale Colony, Inc. and Harvey Farms, Inc.

CAFO NPDES PERMIT No.: MT0031819

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Background Information

This is a new permit for an existing multi-species confined animal feeding operation located on the Blackfeet Reservation in Section 32, Township 36 north, Range 7 west, 48.848° north latitude and 112.545° west longitude, northwest of Cut Bank, Montana off Chalk Butte Road. Glendale Colony, Inc. has a production area and land application areas which include fields in Sections 31 and 32 of Township 36 north, Range 7 west and Section 5 of Township 35 north, Range 7 west. Manure and wastewater may also be land applied to Harvey Farms, Inc., which is a land application area only. Harvey Farms, Inc. is an adjacent, independent functioning entity owned by Glendale Colony, Inc. The Harvey Farms, Inc. land application fields are in the same Township, Range and Sections as the Glendale Colony, Inc. land application fields. The Glendale Colony, Inc. facility has been at this site since 1969 and has never been permitted by the Environmental Protection Agency nor the Montana Department of Environmental Quality.

Receiving Waters

The closest surface water to the facilities is Cut Bank Creek, which is located about 10 miles south of the Glendale Colony production area. Any runoff would have to flow a farther path of about 18 miles through vegetated ephemeral drainages and Rocky Coulee, a seasonal stream, to reach Cut Bank Creek. The 25-year, 24-hour storm event for this area is 3 inches of precipitation, with the June being the month with the highest average precipitation for any given year and an annual average precipitation amount of about 14 inches.

Monitoring Data

Neither Glendale Colony nor Harvey Farms has ever discharged so no monitoring data is available.

I. GENERAL STATUTORY AND REGULATORY INFORMATION

Section 301(a) of the Clean Water Act (CWA) [33 U.S.C. §1311(a)] prohibits the discharge of pollutants to waters of the U.S. in the absence of authorizing permits, including NPDES permits. The CWA Section 402 [33 U.S.C. §1342] authorizes EPA (or EPA-approved States) to issue NPDES permits allowing such discharges on condition that they in part will comply with requirements implementing CWA Sections 301, 304, and 401 [33 U.S.C. §§1311, 1314, and 1341].

Among those requirements are effluent limitations reflecting levels of technological capability, water quality standards, and other more stringent requirements States may adopt. Violation of a condition contained in this permit, is a violation of the CWA and subjects the operator of the permitted facility to the penalties specified in Section 309 [33 U.S.C. §1319] of the Act.

A. Permit Expiration

In accordance with 40 CFR §122.46(a), this permit has a term of five years from the effective date.

II. RATIONALE FOR EFFLUENT LIMITATIONS AND STANDARDS

A. Effluent Limitations

Section 301 [33 U.S.C. §1311] of the CWA prohibits the discharge of pollutants by any point source into waters of the U.S. except in accordance with a permit. It also requires that dischargers comply with effluent limitations necessary to meet water quality standards. The NPDES permit regulations at 40 CFR §§122.44(a) and (d) implement Section 301 by requiring that each NPDES permit issued under Section 402 [33 U.S.C. §1342] include conditions that meet technology-based effluent limitations and standards, as well as water quality standards.

1. Technology-based Effluent Limitations

Large CAFOs are subject to the effluent guidelines found at 40 CFR Part 412.

Pursuant to the Clean Water Act (the “Act”) Section 402(a)(2) [33 U.S.C. §1342] and 40 CFR §122.44(k)(3), best management practices (BMPs) are being proposed in the permit. These practices are reasonably necessary either to achieve effluent limitations or to carry out the Act’s goals of eliminating the discharge of pollutants as much as practicable and to maintain water quality

a. Technology-based Effluent Limitations and Standards – Glendale Colony Production Area

There shall be **no discharge** of manure, litter, or process wastewater pollutants into waters of the United States from the production area except as provided below: (In accordance with 40 CFR §§412.31 and 412.43)

The design storage volume must reflect manure, wastewater, and other wastes accumulated during the storage period; normal precipitation less evaporation on the surface area during the entire storage period; normal runoff from the facility’s drainage area during the storage period; 25-year, 24-hour precipitation on the surface (at the required design storage volume level) of the facility; 25-year, 24-hour runoff from the facility’s drainage area; residual solids after liquids have been removed; necessary freeboard;

and, in the case of treatment lagoons, a minimum treatment volume necessary to allow anaerobic treatment to occur. [40 CFR §122.42(e)(1)(i)]

- b. The additional measures and records. In accordance with 40 CFR §§412.37(a) and (b).

2. Additional Measures – Applicable to the Glendale Colony Production Area

Visual inspections of the production area including: [40 CFR §412.37(a)(1)]

- a. Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structures. [40 CFR §412.37(a)(1)(i)]
- b. Daily inspections of all water lines, including drinking water and cooling water lines. [40 CFR §412.37(a)(1)(ii)]
- c. Weekly inspections of the manure, litter, and process wastewater impoundments noting the level as indicated by the depth marker installed in accordance with part d below, and 40 CFR §412.37(a)(2). [40 CFR §412.37(a)(1)(iii)]
- d. Installation of a depth marker in all open surface liquid impoundments which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event. [40 CFR §412.37(a)(2)]
- e. Correction of any deficiencies that are identified as a result of visual inspections as soon as possible. [40 CFR §412.37(a)(3)]
- f. No disposal of animal mortalities in any liquid manure or process wastewater systems and handling of animal mortalities in such a way as to prevent discharge of pollutants to surface water. [40 CFR §412.37(a)(4)]
- g. Complete records of maintenance for the production area, in accordance with 40 CFR §412.37(b). Records must be maintained on-site at the permitted CAFO for five years from the date they are created and must include the records identified in the Operation and Maintenance section of Table IV-A of the permit.

3. Water Quality-based Effluent Limitations and Standards – Glendale Colony Production Area

In those cases where technology-based effluent limitations are not sufficient to meet water quality standards, the permitting authority must develop more stringent water quality-based effluent limitations on a site-specific basis. NPDES permits for CAFOs may include BMPs as water quality-based effluent limitations or use BMPs that are reasonably necessary to meet water quality-based effluent limitations [40 CFR §122.44(k)].

4. Technology-based Effluent Limitations and Standards – Glendale Colony and Harvey Farms Land Application Areas under the Control of the CAFO Owner/Operator

The CAFO must develop and implement a nutrient management plan. [40 CFR §412.4(c)(1)]

- a. Develop and implement a nutrient management plan that is based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field. [40 CFR §412(c)(1)]
- b. Address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters. [40 CFR §412(c)(1)]
- c. Determine application rates for manure, litter, and process wastewater that minimize phosphorus and nitrogen transport from the field to surface waters in accordance with the technical standards for nutrient management established by the Director. [40 CFR §412(c)(2)]
- d. In addition to the above technology-based effluent limitations for the land application areas, EPA has established BPJ requirements for identification of site specific conservation practices to control runoff of pollutants to waters of the U.S. [40 CFR §122.42(e)(1)(vi)]
- e. Establishment of protocols to land apply manure, litter, and process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. [40 CFR §122.42(e)(1)(vii)]
- f. Analyze manure a minimum of once annually for nitrogen and phosphorus content and soil a minimum of once every five years for phosphorus content. [40 CFR §412.4(c)(3)]
- g. Periodically inspect for leaks equipment used for land application of manure, litter, or process wastewater. [40 CFR §412.4(c)(4)]

- h. Do not apply manure, litter, or process wastewater closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited. [40 CFR §412.4(c)(5) and 40 CFR §412.4(c)(5)(i)]
 - i. Complete on-site records including the site specific NMP must be maintained to document implementation of all required land application practices. [40 CFR §412.37(b)]

- 5. Other Limitations for the Glendale Colony and Harvey Farms Land Application Areas under the Control of the CAFO Owner/Operator
 - a. Additional BMPs to control discharges from land application areas. [Based on Best Professional Judgment]

 - b. Prohibitions
 - (i) There shall be no discharge of manure, litter or process wastewater to a water of the United States from a CAFO as a result of the application of manure, litter or process wastewater to land areas under the control of the CAFO, except where it is an agricultural storm water discharge. [40 CFR §122.23(e)]

 - c. Water Quality-Based Effluent Limitations.
 Discharges from CAFO land application areas, except where it is an agricultural storm water discharge, are subject to NPDES requirements, including water quality-based effluent limitations. Federal regulations [40 CFR §122.44(d)] require permit limitations to control all pollutants which may be discharged at a level having the reasonable potential to cause, or contribute to an excursion above water quality standard. In most instances, a CAFO that meets technology-based permit limits requiring manure to be applied at appropriate agronomic rates will eliminate all or most dry weather discharges. However, if such discharges remain, the Permitting Authority must determine the need for additional water quality-based effluent limitations to meet applicable water quality standards based on the circumstances of each particular case (see the Preamble to the Final Rule, 73 FR 70,418 (November 20, 2008)).

This permit prohibits all dry weather discharge from the land application area.

6. Effluent Limitations - Other Discharges

a. Other Glendale Colony production area discharges

Permit limitations are based on best professional judgment (BPJ) when national effluent limitations guidelines that apply to the appropriate category, or to the particular process involved, have not been issued. EPA can use BPJ to develop special permit conditions to address specific discharges at CAFOs, such as washdown of equipment that has been in contact with manure, discharges of fuel, and pollutants (i.e., manure and feed) which have fallen to the ground immediately downwind from confinement building exhaust ducts and ventilation fans and are carried by storm water runoff to waters of the U.S. (see Section 4.1.1 of EPA's December 31, 2003, NPDES Permit Writers' Guidance Manual and Example NPDES Permit for CAFOs). Discharges from CAFOs, including process wastewater discharges from outside the production area, non-process wastewater discharges, and storm water discharges not addressed under the ELG, except where they are considered an agricultural storm water discharge, are subject to NPDES requirements, including water quality-based effluent limitations.

B. Other Legal Requirements

No condition of this permit releases the permittee from any responsibility or requirements under other statutes or regulations, Federal, Indian Tribe or Local. [40 CFR §§122.1(f) and 122.49]

III. SPECIAL CONDITIONS

A. Nutrient Management Plan

Schedule. The completed NMP must be submitted to the Permit Authority with the permit application for CAFOs seeking coverage under this permit. The permittee shall implement its NMP upon authorization under this permit. [40 CFR §122.23(h)]

1. NMP Terms and Conditions

The permittee must develop, submit with permit application, and upon authorization implement a site specific Nutrient Management Plan (NMP). The NMP must specifically identify and describe the practices that will be implemented to assure compliance with the effluent limitations and special conditions in this CAFO permit. The NMP must be developed in accordance with the NRCS Conservation Practice Standard Code 590 (Nutrient Management). As provided in 40 CFR §123.36, these technical standards must be consistent with 40 CFR §412.4(c)(2), which in part provides that such standards must operate to minimize the transport of nutrients to surface waters. The nutrient management

plan accomplishes this primarily by restricting the quantity of nutrients that can be land applied and matching that quantity with the nutrient needs of the crops being grown on the fields used for such land application. [40 CFR §122.23(h)]

Upon receipt of the NMP, the Director will review the NMP. The Director can request additional information if needed. The Director will use the NMP to identify site-specific permit terms, which must be incorporated as terms and conditions of the permit. [40 CFR §122.23(h)]

Once the permit application and NMP are complete and have been reviewed by the Director, the Director will notify the public and make available for public review and comment the proposed permit and materials submitted by the CAFO, including the CAFO's NMP, and the terms of the NMP identified by the Director to be incorporated into the permit, as determined by the Director, at the EPA Region 8 internet site (<http://www.epa.gov/region8/water/cafo/>). The notice will also provide the opportunity to request a public hearing on the proposed permit and NMP in accordance with 40 CFR §§124.11 and 124.12. The public is provided 30 days to comment and request a hearing on the proposed terms of the NMP to be incorporated into the permit. The Director will respond to significant comments and can revise the NMP or terms of the permit if necessary. [40 CFR §122.23(h)]

The permit specifies that the NMP must, at a minimum, include practices and procedures necessary to implement the applicable effluent limitations and standards. In addition, the NMP must meet nine minimum measures required under 40 CFR §§122.42(e)(1)(i-ix), and specified in this permit. These requirements include the following:

- a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities. [40 CFR §122.42(e)(1)(i)]
- b. Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities. [40 CFR §122.42(e)(1)(ii)]
- c. Ensure that clean water is diverted, as appropriate, from the production area. [40 CFR §122.42(e)(1)(iii)]
- d. Prevent the direct contact of animals confined or stabled at the facility with waters of the United States. [40 CFR §122.23(1)(iv)]
- e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water

storage or treatment system unless specifically designed to treat such chemicals or contaminants. [40 CFR §122.23(1)(v)]

- f. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States and specifically, to minimize the runoff of nitrogen and phosphorus. [40 CFR §122.23(1)(vi)]
- g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil. [40 CFR §122.23(1)(vii)]
- h. Establish protocols to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. [40 CFR §122.23(1)(viii)]

Application rates will be expressed in NMPs consistent with the approach described below:

Narrative Rate Approach. An approach that expresses rates of application as narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied according to the following specifications:

- (i) The terms include maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the Director, in pounds per acre, for each field, and certain factors necessary to determine such amounts. At a minimum, the factors that are terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses such as pasture or fallow fields (including alternative crops identified in accordance with paragraph (ii)(B) of this section); the realistic yield goal for each crop or use identified for each field, and the nitrogen and phosphorus recommendations from sources specified by the Director for each crop or use identified for each field. In addition, the terms include the methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter, and process wastewater to be land applied: results of soil tests conducted in accordance with protocols identified in the nutrient management plan, credits for all nitrogen in the field that will be plant available; the amount of nitrogen and phosphorus in the manure, litter and process

wastewater to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field, the form and source of manure, litter, and process wastewater; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen.

- (ii) The terms of the nutrient management plan include alternative crops identified in the CAFO's nutrient management plan that are not in the planned rotation. Where a CAFO includes alternative crops in its nutrient management plan, the crops must be listed by field, in addition to the crops identified in the planned crop rotation for that field and the nutrient management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations from sources specified by the Director for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure, litter, and process wastewater to be applied must be determined in accordance with the methodology described in (ii)(A) of this section.
- (iii) For CAFOs using this approach the following projections must be included in the nutrient management plan submitted to the Director, but are not terms of the nutrient management plan: the CAFO's planned crop rotations for each field for the period of permit coverage, the projected amount of manure, litter, or process wastewater to be applied; projected credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application: accounting for all other additions of plant available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the nutrient management plan.
- (iv) CAFOs that use this approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology required in paragraph (ii)(A) of this section before land applying manure, litter, and process wastewater and must rely on the following data:
 - (1) a field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required in paragraph (ii)(A) of this section, and for phosphorus, the result of the most recent soil test conducted in accordance with soil testing requirements approved by the Director; and

(2) the results of most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter., and process wastewater to be applied. [40 CFR §122.42(e)(5)(ii)]

i. Identify and maintain all records necessary to document the development and implementation of the NMP and compliance with the permit. [40 CFR §122.23(1)(ix)]

2. Signature.

The NMP shall be signed by the owner/operator or other signatory authority in accordance with Part VI.E (Signatory Requirements) of this permit. [40 CFR §122.41(k)]

3. NMP Kept on Site

A current copy of the NMP shall be kept on-site at the permitted facility in accordance with Part IV.C of this permit and provided to the permitting authority upon request. [40 CFR §412.37(c)]

4. Changes to the NMP

a. The permit recognizes that a CAFO owner or operator may need to make changes to its NMP. When the permittee makes changes to the CAFO's NMP previously submitted to the Director, the CAFO owner or operator must provide the Director with the most current version of the CAFO's NMP and identify changes from the previous version. [40 CFR §122.42(e)(6)(i)]

b. The Director will review the revised NMP. If the Director determines that the changes to the NMP require revision of the terms of the NMP incorporated into the permit issued to the CAFO, the Director must then determine whether such changes are substantial. [40 CFR §122.42(e)(6)(ii)] Substantial changes to the terms of a NMP incorporated as terms and conditions of a permit include, but are not limited to: [40 CFR §122.42(e)(6)(iii)]

(i) Addition of new land application areas not previously included in the CAFO's NMP, except that if the added land application area is covered by the terms of a NMP incorporated into an existing NPDES permit and the permittee complies with such terms when applying manure, litter, and process wastewater to the added land; [40 CFR §122.42(e)(6)(iii)(A)]

- (ii) For NMPs using the Narrative Rate Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop; [40 CFR §122.42(e)(6)(iii)(B)]
 - (iii) Addition of any crop or other uses not included in the terms of the CAFO's NMP; and [40 CFR §122.42(e)(6)(iii)(C)]
 - (iv) Changes to site-specific components of the CAFO's NMP, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the U.S. [40 CFR §122.42(e)(6)(iii)(D)]
- c. If the changes to the terms of the NMP are not substantial, the Director will include the revised NMP in the permit record, revise the terms of the permit based on the site specific NMP, and notify the permittee and the public of any changes to the terms of the permit based on revisions to the NMP. [40 CFR §122.42(e)(6)(ii)(A)]
 - d. If the Director determines that the changes to the terms of the NMP are substantial, the Director will notify the public, make the proposed changes and make the information submitted by the CAFO owner or operator available for public review and comment, and respond to all significant comments received during the comment period. The Director may require the permittee to further revise the NMP, if necessary. Once the Director incorporates the revised terms of the NMP into the permit, the Director will notify the permittee of the revised terms and conditions of the permit. [40 CFR §122.42(e)(6)(ii)(B)]

B. Facility Closure

Abandoned or improperly closed CAFOs pose a pollution threat to surface water and groundwater that can be significant for large facilities and increases due to a lack of proper maintenance and management.

This CAFO permit includes specific closure requirements for lagoons and other surface impoundments, as well as for other manure, litter and process wastewater storage and handling facilities. Under this permit, no such facilities may be abandoned and each must be properly closed as promptly as practicable upon ceasing operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of twelve consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either: (1) maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or (2) removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee must notify EPA of the action taken, and must conduct routine

inspections, maintenance, and record keeping as though the structure were in use. Prior to restoration of use of the structure, the permittee shall notify EPA and provide the opportunity for inspection.

All closure of lagoons and other earthen or synthetic lined basins must be consistent with NRCS Conservation Practice Standard Code 360 (Closure of Waste Impoundments). Consistent with this standard the permittee must remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's nutrient management plan, unless otherwise authorized by EPA.

Closure of all other manure, litter, or process wastewater storage and handling structures must occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within 12 months after the date on which the use of the structure ceased. To close a manure, litter, or process wastewater storage and handling structure, the permittee must remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's nutrient management plan, or document its transfer from the permitted facility in accordance with off-site transfer requirements specified in this permit, unless otherwise authorized by EPA. [40 CFR §122.23(h)]

C. Requirements for the Transfer of Manure, Litter, and Process Wastewater to Other Persons

Under this CAFO permit, where CAFO-generated manure, litter, or process wastewater is sold or given away the permittee must comply with specific requirements that document the transaction and promote proper management. These include the following conditions:

1. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation;
2. Record the name and address of the recipient;
3. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater; and
4. These records must be retained on-site, for a period of five years, and be submitted to the permitting authority upon request. [40 CFR §122.42(e)(3)]

This CAFO permit does not establish requirements for off-site management of CAFO generated manure, litter, or process wastewater. However, the Director can use the documentation specified above to ensure proper management of such materials as appropriate.

IV. DISCHARGE MONITORING AND NOTIFICATION REQUIREMENTS

A. Notification of Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application

This permit provides that in the event of a discharge of pollutants to a water of the United States, the permittee is required to make immediate oral notification within 24-hours to the EPA Region 8, Site Assessment/Emergency Response Program at (303) 293-1788 and notify EPA in writing within five (5) working days of the discharge from the facility. In addition, the permittee must keep a copy of the notification submitted to EPA together with the other records required by this permit. The discharge notification must include: 1) A description of the discharge and its cause, including a description of the flow path to the receiving water body and an estimate of the flow and volume discharged; and 2) The period of non-compliance, including exact dates and times, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge. This reporting requirement is a standard permit condition under 40 CFR §122.41(l)(6). Note that runoff that meets the criteria of the agricultural stormwater exemption does not constitute a point source discharge.

B. Monitoring Requirements for All Discharges from Retention Structures

This CAFO permit provides that in the event of any overflow or other discharge of pollutants from a manure and/or wastewater storage or retention structure, whether or not authorized by this permit, all discharges must be sampled and analyzed, and an estimate of the volume of the release and the date and time must be recorded. [40 CFR §122.41(j)]

Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, ammonia nitrogen phosphorus, fecal coliform, five-day biochemical oxygen demand (BOD₅), total suspended solids, pH, and temperature. The discharge must be analyzed in accordance with approved EPA methods for water analysis listed in 40 CFR Part 136. [40 CFR §122.41]

If conditions are not safe for sampling, the permittee must provide documentation of why samples could not be collected and analyzed. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.). However, once dangerous conditions have passed, the permittee shall collect a sample from the retention structure (pond or lagoon) from which the discharge occurred. [40 CFR §122.41]

C. General Inspection, Monitoring, and Record keeping Requirements

Under this permit, the permittee shall inspect, monitor, and record the results of such inspection and monitoring in accordance with Table IV–A:

| Table IV-A NPDES Large CAFO Permit Record Keeping Requirements | | |
|--|---|--|
| Parameter | Units | Frequency |
| Permit and Nutrient Management Plan <i>(Note: Required by the NPDES CAFO Regulation – applicable to all CAFOs)</i> | | |
| The CAFO must maintain on-site a copy of the current NPDES permit. | N/A | Maintain at all times |
| The CAFO must maintain on-site a current site specific NMP that reflects existing operational characteristics. The operation must also maintain on-site all necessary records to document that the NMP is being properly implemented with respect to manure and wastewater generation, storage and handling, and land application. In addition records must be maintained that the development and implementation of the NMP is in accordance with the minimum practices defined in 40 CFR §122.42(e). | N/A | Maintain at all times |
| Soil and Manure/Wastewater Nutrient Analysis <i>(Note: Required by the CAFO ELG – applicable to Large CAFOs)</i> | | |
| Analysis of manure, litter, and process wastewater to determine nitrogen and phosphorus content. ¹ | ppm Pounds/ton | At least annually after initial sampling |
| Analysis of soil in all fields where land application activities are conducted to determine phosphorus content. ¹ | ppm | At least once every 5 years after initial sampling |
| Operation and Maintenance <i>(Note: Required by the CAFO ELG – applicable to Large CAFOs)</i> | | |
| Visual inspection of all water lines | N/A | Daily ² |
| Documentation of depth of manure and process wastewater in all liquid impoundments | Feet | Weekly |
| Documentation of all corrective actions taken. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction. | N/A | As necessary |
| Documentation of animal mortality handling practices | N/A | As necessary |
| Design documentation for all manure, litter, and wastewater storage structures including the following information: <ul style="list-style-type: none"> • Volume for solids accumulation • Design treatment volume • Total design storage volume³ • Days of storage capacity | Cubic yards/gallons Cubic yards/gallons Cubic yards/gallons Days | Once in the permit term unless revised |

| Table IV-A NPDES Large CAFO Permit Record Keeping Requirements | | |
|--|----------------|--|
| Parameter | Units | Frequency |
| Documentation of all overflows from all manure and wastewater storage structures including: (<i>Note: Required by the NPDES Regulation – applicable to all CAFOs</i>) | | |
| • Date and time of overflow | Month/day/year | Per event |
| • Estimated volume of overflow | Total gallons | Per event |
| • Analysis of overflow (as required by the permitting authority) | TBD | Per event |
| Land Application (<i>Note: Required by the CAFO ELG – applicable to Large CAFOs</i>) | | |
| For each application event where manure, litter, or process wastewater is applied, documentation of the following by field: | | |
| • Date of application | Month/day/year | Daily |
| • Method of application | N/A | Daily |
| • Weather conditions at the time of application and for 24 hours prior to and following application | N/A | Daily |
| • Total amount of nitrogen and phosphorus applied ⁴ | Pounds/acre | Daily |
| Documentation of the crop and expected yield for each field | Bushel/acre | Seasonally |
| Documentation of the actual crop planted and actual yield for each field | | |
| Documentation of test methods and sampling protocols used to sample and analyze manure, litter, and wastewater and soil. | N/A | Once in the permit term unless revised |
| Documentation of the basis for the application rates used for each field where manure, litter, or wastewater is applied. | N/A | Once in the permit term unless revised |
| Documentation showing the total nitrogen and phosphorus to be applied to each field including nutrients from the application of manure, litter, and wastewater and other sources | Pounds/acre | Once in the permit term unless revised |
| Documentation of manure application equipment inspection | N/A | Seasonally |
| Manure Transfer (<i>Note: Required by the NPDES CAFO Regulation – applicable to Large CAFOs</i>) | | |
| For all manure transfers the CAFO must maintain the following records: | | |
| • Date of transfer | N/A | As necessary |
| • Name and address of recipient | N/A | As necessary |
| • Approximate amount of manure, litter, or wastewater transferred | Tons/gallons | As necessary |
| ¹ Refer to the state nutrient management technical standard for the specific analyses to be used. ² Visual inspections should take place daily during the course of normal operations. The completion of such inspection should be documented in a manner appropriate to the operation. Some operations may wish to maintain a daily log. Other operations may choose to make a weekly entry, when they update other weekly records, that required daily inspections have been completed. ³ Total design volume includes normal precipitation less evaporation on the surface of the structure for the storage period, normal runoff from the production area for the storage period, 25-year, 24-hour precipitation on the surface of the structure, 25-year, 24-hour runoff from the production area, and residual solids. ⁴ Including quantity/volume of manure, litter, or process wastewater applied and the basis for the rate of phosphorus application. | | |

[40 CFR §§122.42(e)(2) and (3); 40 CFR §§412.37(b) and (c)]

The permittee shall maintain a log recording information obtained during the inspection.

V. ANNUAL REPORTING

Under this permit, the permittee must submit an annual report to the Director by March 31st of each year. The requirement and criteria for the annual report are specified in 40 CFR §122.42(e)(4).

A. The annual report must include the following information:

1. The number and type of animals, whether in open confinement or housed under roof;
2. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
3. Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);
4. Total number of acres for land application covered by the NMP;
5. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;
6. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume;
7. A statement indicating whether the current version of the CAFO's NMP was developed or approved by a certified nutrient management planner;
8. Actual crops planted and actual yields for each field for the preceding 12 months;
9. Results of all samples of manure, litter or process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land applied;
10. Results of calculations conducted in accordance with Parts III.A.1.g.i(A) (for the Narrative Rate Approach);
11. Amount of manure, litter, and process wastewater applied to each field during the preceding 12 months, and;
12. For CAFOs using the Narrative Rate Approach to address rates of application:
 - a. The results of any soil testing for nitrogen and phosphorus conducted during the preceding 12 months.
 - b. The data used in calculations conducted in accordance with Part III.A.1.g.i(A).

- c. The amount of any supplemental fertilizer applied during the preceding 12 months.

VI. STANDARD CONDITIONS

This NPDES Permit for CAFOs incorporates the standard conditions applicable to all permits issued under the NPDES program. These conditions consist of: general conditions, proper operation and maintenance, monitoring and records, reporting requirements, signatory requirements, certification, availability of reports, and penalties for violations of permit conditions. Additional information on each of these standard permit conditions is contained in Section VI of this permit [40 CFR §122.41]

Endangered Species Act (ESA) Requirements: Section 7(a)(2) [16 U.S.C. §1536(a)(2)] of the Endangered Species Act requires federal agencies to insure that any actions authorized, funded, or carried out by an Agency are not likely to jeopardize the continued existence of any federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species.

Federally listed threatened, endangered and candidate species and proposed and designated critical habitat found on the Blackfeet Reservation, Montana are listed in the following table:

| Common Name | Scientific Name | Status |
|-----------------|--------------------------------|------------|
| Grizzly Bear | <i>Ursus arctos horribilis</i> | Threatened |
| Canada Lynx | <i>Lynx canadensis</i> | Threatened |
| Piping Plover | <i>Charadrius melodus</i> | Threatened |
| Bull Trout | <i>Salvelinus confluentis</i> | Threatened |
| Sprague's Pipit | <i>Anthus spragueii</i> | Candidate |
| Wolverine | <i>Gulo gulo luscus</i> | Candidate |
| Whitebark Pine | <i>Pinus albicaulis</i> | Candidate |

The above information was obtained from the following website:
<http://www.fws.gov/mountain-prairie/mt.html>.

EPA finds that this permit is “Not Likely to Adversely Affect” any of the species listed above by the US Fish and Wildlife Service under the Endangered Species Act. This facility is a no discharge facility and has been at this location since 1969.

National Historic Preservation Act (NHPA) Requirements: Section 106 of the National Historic Preservation Act (NHPA) [16 U.S.C. §470(f)] requires that federal agencies consider the effects of federal undertakings on historic properties. EPA has evaluated its issuance of the NPDES permit for Glendale Colony and Harvey Farms to assess this action’s potential effects on any listed or eligible historic properties or cultural resources. EPA does not anticipate any impacts on listed/eligible historic properties or cultural resources because this facility is already constructed and the land application areas are currently under agricultural cultivation. Thus this permit will not be associated with any new ground disturbance and the permit requires no discharge.

Public Notice Requirements

The permit and statement of basis were put out for public notice by publishing a notice of availability in the *Glacier Reporter*, a newspaper of general circulation on the Blackfeet Reservation in Glacier County, Montana, on January 8, 2014. The public notice comment period ended on February 18, 2014, and EPA did not get any comments as a result of this public notice.

CWA § 401 Certification Requirements

The EPA has granted the Blackfeet Tribe treatment as a state status and the Tribe has developed draft water quality standards. In concurrence with Clean Water Act § 401, the EPA sent a request for CWA § 401 certification to the Tribe. The § 401 certification was sent to the chairman of the Blackfeet Tribal Business Council with a copy of the request sent to the manager of the Blackfeet Environmental Office. The EPA did not receive an answer from the Tribe within the time period given in the request letter and thus the Blackfeet Tribe is deemed to have waived their right to certify and EPA will issue the permit as written.

Draft permit and statement of basis drafted by:
David Rise, EPA Region 8, Montana Office
January 18, 2013

Permit and statement of basis modified by:
David Rise on December 16, 2013 and February 18, 2014