Permit No.: MT0031819

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

In compliance with provisions of the Clean Water Act, 33 USC 1251 et seq., the "Act," the

Glendale Colony Inc. and Harvey Farms, Inc.

are authorized to discharge and must operate their facilities in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein. The facilities are located in Indian Country as defined at 18 U.S.C. 1151 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.

A copy of this permit must be kept by the permittees at the site of the permitted activity.

This permit will become effective **April 1, 2014**

This permit and the authorization to discharge under the NPDES shall expire at midnight, **March 31, 2019**

Signed this 6th day of March 2014

Authorized Permitting Official

for Debra H. Thomas
Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

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PART I. BACKGROUND INFORMATION

Glendale Colony, Inc. is a multi-animal species concentrated animal feeding operation, which also has property owned or controlled by Glendale Colony, Inc. for land application of manure, litter and/or process wastewater from the production area as described below. Harvey Farms, Inc. is a separately managed tract of lands, owned entirely by Glendale Colony, Inc. and is used for land application of manure, litter and/or process wastewater from the Glendale Colony, Inc. production area as described below.

Production Area The Glendale Colony, Inc. production area is located in section 32 of range 36 north, township 7 west and section 29 of range 37 north, township 7 west. The area consists of swine, chicken, duck and turkey confinement buildings and an open lot dairy confinement facility with adjacent feed storage and handling areas and manure containment structures. Manure storage is an open stacking pad for dry manure, which has a 247 day capacity and an open, 3,000,000 gallon lagoon for liquid manure with a 70 day capacity. The Harvey Farms, Inc. site is for land application only of manure from the Glendale Colony, Inc. production area.

Land Application The Glendale Colony, Inc. and Harvey Farms, Inc. land application areas are identified and described in the Nutrient Management Plans (NMP) for each facility. The land application areas of each facility will be utilized for land application of manure, litter, or process wastewater from the Glendale Colony, Inc. production area.

PART II. EFFLUENT LIMITATIONS AND STANDARDS

A. Effluent Limitations and Standards

The following effluent limitations apply to the Glendale Colony and Harvey Farms facilities covered under this permit as described in each effluent limitation section below:

1. Technology-based Effluent Limitations and Standards - Glendale Colony, Inc. 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.

   a. Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged into waters of the United States provided:
      i. The production area is properly designed, constructed, operated and maintained to contain all manure, litter, process wastewater plus the runoff and direct precipitation from the 25-year, 24-hour storm event for the location of the CAFO.

ii. The design storage volume is adequate to contain all manure, litter, and process wastewater accumulated during the storage period considering, at a minimum, the following:
   (A) The volume of manure, litter, process wastewater, and other wastes accumulated during the storage period;
   (B) Normal precipitation less evaporation during the storage period;
   (C) Normal runoff during the storage period;
   (D) The direct precipitation from the 25-year, 24-hour storm;
   (E) The runoff from the 25-year, 24-hour storm event from the production area;
   (F) Residuals solids after liquid has been removed;
   (G) Necessary freeboard to maintain structural integrity; and
   (H) A minimum treatment volume, in the case of treatment lagoons.

b. The production area must be operated in accordance with the additional measures and records specific in Part II.A.2 of this permit.

2. Other Limitations – Applicable to the Glendale Colony, Inc. Production Area

a. Additional Requirements

In addition to meeting the requirements in Part II.A.1 of this permit, the permittee must implement the following additional requirements.

i. Conduct weekly visual 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.
ii. Conduct daily visual inspections of all water lines, including drinking water and cooling water lines.
iii. Install a depth marker in all open surface liquid impoundments. The depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event. The marker shall be visible from the top of the levee.
iv. Conduct weekly inspections of the manure, litter, and process wastewater impoundments noting the level as indicated by the depth marker installed in accordance with Part II.A.2.a.iii.
v. Correct any deficiencies that are identified in daily and weekly inspections in a timely manner.
vi. Properly dispose of dead animals within three (3) days unless otherwise provided for by the Director. Mortalities must not be disposed of in any liquid manure or process wastewater system that is not specifically designed to treat animal mortalities. Animals shall be disposed of in a manner to prevent contamination of waters of the United States or creation of a public health hazard.

vii. Maintain complete on-site records documenting implementation of all required additional measures, including the records specified for Operation and Maintenance in Part IV.C, Table IV-A, for a period of at least five years.

viii. CAFOs constructing new wastewater retention facilities or modifying existing retention facilities shall insure that all retention structure design and construction will, at a minimum, be in accordance with the technical standards developed by the Natural Resources Conservation Service (NRCS). The permittee must use those standards that are current at the time of construction. Existing retention facilities that have been properly maintained and show no signs of structural breakage will be considered to be properly constructed.

The following minimum design standards are required for construction and/or modification of a retention facility: (a) soils used in the embankment shall be free of foreign material such as trash, brush, and fallen trees; (b) the embankment shall be constructed in lifts or layers no more than 6 inches thick and compacted at optimum moisture content; (c) all embankment walls shall be stabilized to prevent erosion or deterioration; (d) site specific variation in embankment construction shall be in accordance with NRCS design standards.

ix. A rain gauge shall be kept on site and properly maintained. A log of all measurable rainfall events shall be kept with the NMP.

x. Open lots and associated wastes shall be isolated from run-on from outside surface drainage by ditches, dikes, berms, terraces or other such structures designed to carry peak flows expected at times when a 25-year, 24-hour rainfall event occurs. Clean water and flood waters must be diverted from contact with feedlots and holding pens, and manure and/or process wastewater storage systems. Clean water includes rain falling on the roofs of facility, runoff from adjacent land, or other sources.

xi. Facility shall not expand operations, either in size or numbers of animals, prior to amending or enlarging the waste handling procedures and structures to accommodate any additional wastes that will be generated by the expanded operations.

b. Prohibitions

i. All discharges to retention facilities shall be composed entirely of manure, litter or process wastewater from the proper operation and maintenance of a CAFO, and the precipitation from the animal confinement, storage and handling areas. The disposal of other materials into these retention facilities is prohibited.

ii. Animals confined at the CAFO shall not be allowed to come into direct contact with waters of the United States. Fences may be used to restrict such access.

iii. New facilities shall not be built in a water of the United States (including streams, rivers, lakes, wetlands and playa lakes) as defined in 40 CFR 122.2.

iv. Wastewater containment facilities, manure storage facilities or holding pens may not be located in the 100-year flood plain unless the facility is protected from inundation and damage that may occur during that flood event.

v. There shall be no water quality impairment to public and neighboring private drinking water wells due to waste handling at the permitted facility. Facility wastewater retention facilities, holding pens or waste/wastewater disposal sites shall not be located closer to public or private water wells than the distances specified by State regulations or health codes, or other issued permits for that facility.

vi. There shall be no discharge of manure, litter or process wastewater from retention or control structures to groundwater with a direct hydrologic connection to surface waters of the United States (see Part III.D).

vii. There shall be no discharge of rainfall runoff from manure or litter storage piles to waters of the U.S.

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

EPA has established the following permit conditions to protect water quality standards.

a. Discharges to Water Quality Impaired Waters.

i. If the CAFO discharges to an impaired water with an EPA approved or established TMDL, EPA will inform the facility if any additional limits or controls are necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in the TMDL. Any additional limits or controls shall be included in the NMP.

ii. If the CAFO discharges to an impaired water without an EPA approved or established TMDL, EPA will inform the facility if any additional limits or controls are necessary to meet water quality standards. Any additional limits or controls shall be included in the NMP.

b. Corrective Actions

If at any time the facility becomes aware, or EPA determines, that any discharge causes or contributes to an exceedance of applicable water quality standards, the facility must take corrective action as required in Part II.A.3.a. Any changes to the NMP required to fulfill the requirements of Part II.A.3.a shall be done in accordance with Part III.A.4.

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

Permittees that apply manure, litter, or process wastewater to land under the permitted CAFO's ownership or operational control must implement an NMP in accordance with the requirements specified below and in Part III.A of this permit.

The NMP that is developed and implemented must incorporate the following requirements:

a. Nutrient transport potential. The NMP must incorporate elements in paragraphs c – h below based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field.

b. Form, source, amount, timing, and method of application. The NMP must 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.

c. Determination of application rates. Application rates for manure, litter, or process wastewater must minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the most current United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) technical standards (available at http://efotg.sc.egov.usda.gov/references/public/MT/590_spec_Dec_2006.pdf)

d Site specific conservation practices. 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.

e. Protocols to land apply manure, litter or process wastewater. 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.

f. Manure and soil sampling. Manure must be analyzed at least once annually for nitrogen and phosphorus content. Soil must be analyzed at lease once every five years for phosphorus content. The results of these analyses must be used in determining application rates for manure, litter, and process wastewater;

g. Inspection of land application equipment for leaks. Equipment used for land application of manure, litter, or process wastewater must be inspected periodically for leaks;

h. Land application setback requirements. Manure, litter, or process wastewater must not be applied closer than one-hundred (100) feet to any down-gradient water of the United States, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to waters of the United States. The permittee may elect to use a 35-foot vegetated buffer where applications of manure, litter, or process wastewater are prohibited as an alternative to the 100-foot setback to meet this requirement. As a compliance alternative, the permittee may demonstrate that a set-back or

buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot setback.

i. Complete on-site records including the site specific NMP must be maintained to document implementation of all required land application practices. Such documentation must include the records specified for Soil and Manure/Wastewater Nutrient Analyses and Land Application in Part IV.C, Table IV-A.

5. Other Limitations for Glendale Colony, Inc. and Harvey Farms, Inc. Land Application areas under the Control of the CAFO Owner/Operator

a. Additional BMPs to control discharges from land application areas.

i. Areas shall be identified that, due to topography, activities or other factors, have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to waters of the United States, measures used to limit erosion and pollutant runoff shall be identified.

ii. Irrigation Control: Irrigation systems shall be managed so as to reduce or minimize (a) ponding or puddling of wastewater on land application fields, (b) contamination of ground and surface water and (c) the occurrence of nuisance conditions such as odors and flies.

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. Where manure, litter, or process wastewater has been applied in accordance with the CAFO's site specific NMP, a precipitation related discharge of manure, litter or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.

ii. Manure and process wastewater shall not be applied to frozen, snow-covered, or saturated soil. If application to frozen, snow-covered, or saturated soil is absolutely necessary, the operator shall notify the permitting authority of any deviation from the NMP.

c. Water Quality-Based Effluent Limitations. There shall be no dry weather discharges from land application sites unless authorized by permitting authority.

6. Other Limitations

a. Process wastewater discharges from outside the Glendale Colony, Inc. production area, including: washdown of equipment that has been in contact with manure, raw materials, products or byproducts that occurs outside of the production area; runoff of pollutants from raw materials, products or byproducts (such as manure, feathers, litter, bedding and feed) from the CAFO that have been spilled or otherwise deposited outside the production area that have the potential to contribute pollutants to waters of the United States shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards.

b. Discharges that do not meet the definition of process wastewater, including: discharges associated with feed, fuel, chemical, or oil spills, equipment repair, and equipment cleaning where the equipment has not been in contact with manure, raw materials, products or byproducts; domestic wastewater discharges and have potential to contribute pollutants to waters of the United States shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards.

c. Storm water discharges that are not addressed under the effluent limitations in Part II above remain subject to applicable industrial or construction storm water discharge requirements.

In addition to meeting the above effluent limitations (Part II.A), the permittee must comply with the special conditions established in Part III of this permit.

B. Other Legal Requirements

No condition of this permit shall release the permittee from any responsibility or requirements under other statutes or regulations, Federal, Indian Tribe or Local.

PART III. SPECIAL CONDITIONS

A. Requirements for Developing and Implementing Nutrient Management Plans (NMPs)

The permittee developed and submitted site specific NMPs for Glendale Colony, Inc. and Harvey Farms, Inc. along with the permit application. The NMPs specifically identify and describe practices that will be implemented to assure compliance with the effluent limitations and special conditions of this permit (Parts II.A and III.A). The NMPs were prepared by a certified Technical Service Provider in cooperation with the USDA-Natural Resources Conservation Service.

1. NMP Terms and Conditions.

The site specific NMPs at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards. The

CAFO owner or operator shall comply with the contents of the EPA approved NMPs. In addition, the CAFO's NMPs covered by this permit must, as applicable:

a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities. All wastewater and manure containment structures shall at a minimum be designed, constructed, operated, and maintained in accordance with the standards of the *Natural Resources Conservation Service, Field Office Technical Guide*. Storage capacity must be sufficient to meet the minimum requirements of Part II.A.1, as stated above, and also must be sufficient to allow the CAFO to comply with the land application schedule specified in the NMPs.

b. Ensure and maintain that clean water is diverted, as appropriate, from the production area. Any clean water that is not diverted and comes into contact with raw materials, products, or byproducts including manure, litter, process wastewater, feed, milk, eggs, or bedding is subject to the effluent limitations specified in Part II.A of this permit. Where clean water is not diverted the permittee must document that it has been accounted for in meeting the requirement to ensure adequate storage capacity as a condition of this permit. Clean water includes, but is not limited to, rain falling on the roof of facility structures and runoff from adjacent land.

c. 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. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the management of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner sufficient to prevent pollutants from entering the manure, litter, or process wastewater retention structures or waters of the United States. Include references to any applicable chemical handling protocols and indicate that other protocols included in the NMPs will be reviewed (see section X of NMPs in appendices).

d. 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. These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, and diversions. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant erosion. Where these areas have the potential to contribute pollutants to waters of the United States, the NMPs shall identify measures used to limit erosion and pollutant runoff.

e. Manure, wastewater and soil sampling protocols must be conducted in accordance with the following requirements:
1. Manure, Litter, and Process Wastewater Testing. Representative samples of manure, litter, and process wastewater shall be collected and analyzed for nutrient content, including nitrogen and phosphorus, at least annually. Manure sampling and analysis shall be conducted as close to the time of application as possible. Separate samples shall be taken from each manure storage site that represents a different animal type, size, age, diet, management practice, type of manure storage and handling, production period, or other factor that could affect nutrient values. Steps must be taken to ensure the collection of a representative sample. The sample must be collected according to Montana NRCS Fact Sheet XX, "Sampling Manure for Nutrient Management" (see section X of NMPs in appendices).

2. Soil Testing. Representative samples of soil for all fields under the control of the CAFO operator where manure and wastewater may be applied must be collected and analyzed for phosphorus content at least once every five (5) years, in accordance with the protocols established in the NMP. Representative samples shall be collected from each field included in the NMP. Each sample area should consist of only one general soil type or condition. If a field varies in slope, color, drainage or texture, and if those areas can be fertilized separately, collect and analyze a separate sample for each area. Samples must be collected according to Montana NRCS Fact Sheet XX, "Sampling Soil for Nutrient Management" (see section X of NMPs in appendices).

f. 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.

The permittee's site specific NMP documented the calculation of land application rates of manure, litter, or process wastewater consistent with the following narrative rate approach:

(1) The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. The potential for nitrogen and phosphorus transport shall be determined using the assessment tools and procedures described in USDA NRCS Conservation Practice Standard 590 (Nutrient Management.) The CAFO must specify any conservation practices used in calculating the risk rating (see section X of NMPs in appendices);
(2) The crops to be planted in each field or any other uses of a field such as pasture or fallow fields, including alternative crops if applicable. Any alternative crops included in the NMP must be

listed by field, in addition to the crops identified in the planned crop rotation for that field (see section X of NMPs in appendices);

(3) The realistic annual yield goal for each crop or use identified for each field for each year, including any alternative crops identified (see section X of NMPs in appendices);

(4) The methodology (including formulas, sources of data, protocols for making determination, etc.) and actual data that will be used to account for: (a) the results of soil tests required by Parts II.A.4.f and III.A.1.e, (b) credits for all nitrogen in the field that will be plant-available, (c) the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied, (d) accounting for all other additions of plant available nitrogen and phosphorus to the field (i.e., from sources other than manure, litter, or process wastewater or credits for residual nitrogen), (e) the timing and method of land application, and (f) volatilization of nitrogen and mineralization of organic nitrogen (see section X of NMPs in appendices).

(5) Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach (see section X of NMPs in appendices).

g. NMPs using the Narrative Rate Approach must also include the following projections, which will not be site specific permit terms (see section X of NMPs in appendices):

(1) Planned crop rotations for each field for the period of permit coverage;

(2) Projected amount of manure, litter, or process wastewater to be applied;

(3) Projected credits for all nitrogen in the field that will be plant-available;

(4) Accounting for other additions of plant-available nitrogen and phosphorus to the field;

(5) The predicted form, source, and method of application of manure, litter, and process wastewater for each crop; and

(6) Timing of application for each field, insofar as it concerns the calculation of rates of application.

h. 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.

i. Prevent direct contact of confined animals with waters of the United States.

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.

3. 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.

4. Changes to the nutrient management plan

   a. When the CAFO owner or operator covered by this permit 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, with the exception of annual calculations of application rates for manure, litter, and process wastewater as required in Parts III.A.1.f (for the Narrative Rate Approach), which are not required to be submitted to the Director.

   b. When changes to a NMP are submitted to the Director, the Director will review the revised NMP to ensure that it meets the requirements of Parts II.A.4 and III.A.1. If the Director determines that the changes to the NMP necessitate revision to the terms of the NMP incorporated into the permit issued to the CAFO, the Director must determine whether such changes are substantial. Substantial changes to the terms of a NMP incorporated as terms and conditions of a permit include, but are not limited to:
      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;
      ii. For NMPs using the Narrative Rate Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop;
      iii. Addition of any crop or other uses not included in the terms of the CAFO's NMP; and
      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 United States

   c. If the Director determines that 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.

   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 the information submitted by the permittee 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.

B. Facility Closure Requirements

The following conditions shall apply to the closure of lagoons and other earthen or synthetic lined basins and other manure, litter, or process wastewater storage and handling structures:

1. Closure of Lagoons and Other Surface Impoundments
   a. No lagoon or other earthen or synthetic lined basin shall be permanently abandoned.
   b. Lagoons and other earthen or synthetic lined basins shall be maintained at all times until closed in compliance with this part.
   c. All lagoons and other earthen or synthetic lined basins must be properly closed if the permittee ceases operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of twelve (12) 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 shall submit a written report to EPA within thiry (30) days of basin closure detailing the actions taken, and shall 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 in writing and provide the opportunity for inspection.
   d. 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 shall 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.
   e. Unless otherwise authorized by EPA, completion of closure for lagoons and other earthen or synthetic lined basins shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, twelve (12) months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.

2. Closure Procedures for Other Manure, Litter, or Process Wastewater Storage and Handling Structure

   No other manure, litter, or process wastewater storage and handling structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within twelve (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 shall

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 Part III.C below, unless otherwise authorized by EPA.

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

1. In cases where CAFO-generated manure, litter, or process wastewater is sold or given away the permittee must comply with the following conditions:
   a. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation;
   b. Record the name and address of the recipient;
   c. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater; and
   d. These records must be retained on-site, for a period of five (5) years, and be submitted to the Permitting Authority upon request.

D. Additional Special Requirements

1. Retention Structure Dewatering: A schedule must be developed for liquid waste removal from the retention structure(s). A date log indicating weekly inspection of wastewater level in the retention facility, including specific measurement of wastewater level must be kept. Retention facilities shall be equipped with either irrigation or evaporation or liquid removal systems capable of dewatering the retention facilities. Operators using pits, ponds, or lagoons for storage and treatment of storm water, manure and process generated wastewater, including flush water waste handling systems, shall maintain sufficient available storage capacity to contain the runoff and the direct precipitation from a 25-year, 24-hour rainfall event. The operator shall restore the storage capacity as soon as possible after any rainfall event or accumulation of wastes reduces such storage capacity, weather permitting.

2. Spills: Appropriate measures necessary to prevent spills and to cleanup spills of any toxic and other pollutants shall be taken. If possible spills are anticipated, materials handling procedures and storage must be specified in the NMP. Procedures for cleaning up spills shall be identified, and the necessary equipment to implement clean up shall be made available to facility personnel. All spills must be reported to EPA (see Part IV below).

3. Solids, sludges, manure or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner to prevent pollutants from being discharged to waters of the United States.

4. Manure, litter, and process wastewater handling, treatment, and management shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or contribute to the taking of endangered or threatened species of plant, fish or wildlife. The operator shall notify the U.S. Fish and Wildlife Service in the event of any significant fish, wildlife, or migratory bird/endangered species kill or die-off

on or near retention ponds, or in fields where waste has been applied, and which could reasonably have resulted from waste management at the facility.

5. Manure, litter, and process wastewater handling, treatment, and management shall not create an environmental or public health hazard; shall not result in the contamination of drinking water; shall conform to State guidelines and/or regulations for the protection of surface water quality.

PART IV. DISCHARGE MONITORING AND NOTIFICATION REQUIREMENTS

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

If, for any reason, there is a discharge of pollutants to a water of the United States, the permittee is required to make immediate oral notification within 24-hours to 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 shall keep a copy of the notification submitted to EPA together with the other records required by this permit. The discharge notification shall include the following information:

a. 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.

b. 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.

B. Monitoring Requirements for All Discharges from Retention Structures

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, the following actions shall be taken:

1. All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, nitrate nitrogen, ammonia nitrogen, total phosphorus, *E. coli* bacteria, five-day biochemical oxygen demand (BOD_5), 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.

2. Record an estimate of the volume of the release and the date and time.

3. Samples shall consist of grab samples collected from the over-flow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge (within 30 minutes). The sample shall be collected and analyzed in accordance with EPA approved methods for water analysis listed in 40 CFR 136. Samples collected shall be representative of the monitored discharge.

4. 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.

5. Monitoring results must be submitted to EPA Region 8, Technical Enforcement Program, within thirty (30) days of the discharge event at the address listed in Part V.1 of this permit.

C. General Inspection, Monitoring, and Record keeping Requirements

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 ***(Note: Required by the NPDES CAFO Regulation – applicable to all CAFOs)***		
The CAFO must maintain on-site a copy of the current NPDES permit, including the permit authorization notice.	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 ***(Note: Required by the CAFO ELG – applicable to Large CAFOs)***		
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 ***(Note: Required by the CAFO ELG – applicable to Large CAFOs)***		

Table IV-A NPDES Large CAFO Permit Record Keeping Requirements		
Parameter	**Units**	**Frequency**
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:		
• Volume for solids accumulation	Cubic yards/gallons	Once in the permit term unless revised
• Design treatment volume	Cubic yards/gallons	
• Total design storage volume[3]	Cubic yards/gallons	
• Days of storage capacity	Days	
Documentation of all overflows from all manure and wastewater storage structures including: ***(Note: Required by the NPDES Regulation – applicable to all CAFOs)***		
• 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)	ppm	Per event
Land Application ***(Note: Required by the CAFO ELG – applicable to Large CAFOs)***		
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	N/A	N/A
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 ***(Note: Required by the NPDES CAFO Regulation – applicable to Large CAFOs)***		
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.

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

PART V. ANNUAL REPORTING REQUIREMENTS

1. The annual report shall be submitted to EPA by March 31st of each year and at the addresses listed below.

EPA Region 8 Montana Office
NPDES Program
10 W 15 ST, Suite 3200
Helena, MT 59626

Blackfeet Environmental Office
Water Quality Manager
PO Box 2029
Browning, MT 59417

2. The annual report must include the following information:
   a. The number and type of animals, whether in open confinement or housed under roof;
   b. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous twelve (12) months (tons/gallons);
   c. Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous twelve (12) months (tons/gallons);
   d. Total number of acres for land application covered by the NMP:
   e. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous twelve (12) months;
   f. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including date, time, and approximate volume; and
   g. A statement indicating whether the current version of the CAFO's NMP was developed or approved by a certified nutrient management planner.
   h. Actual crops planted and actual yields for each field for the preceding twelve (12) months.
   i. 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.
   j. Results of calculations conducted in accordance with III.A.1.g.i (for the Narrative Rate Approach).
   k. Amount of manure, litter, and process wastewater applied to each field during the preceding twelve (12) months.
   l. For CAFOs using the Narrative Rate Approach to address rates of application:
      i. The results of any soil testing for nitrogen and phosphorus conducted during the preceding twelve (12) months.
      ii. The data used in calculations conducted in accordance with Part III.A.1.g.i.
      iii. The amount of any supplemental fertilizer applied during the preceding twelve (12) months.

PART VI. STANDARD PERMIT CONDITIONS

A. General Conditions

1. In accordance with the provisions of 40 CFR §§ 122.41, et. seq., this permit incorporates by reference all conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as all applicable regulations.

2. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual NPDES permit.

3. The permittee shall comply with effluent standards and prohibitions established under § 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State/Tribal or local laws or regulations.

6. 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.

7. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. §1001.

8. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tribal law or regulation under authority preserved by §510 of the Act.

9. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Bypass
    a. *Definitions*
        i. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
        ii. 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.

    b. *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 10.c. and 10.d. of this part.

    c. *Notice*
        i. *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.
        ii. *Unanticipated bypass*. The permittee shall submit notice of unanticipated bypass as required in D.5.of this part (24-hour notice).

    d. *Prohibitions of bypass.*
        i. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
            (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
            (B) 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
            (C) The permittee submitted notices as required under paragraph 10.c. of this part.

ii. 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 10.d.(i).

e. Any bypass allowed by Part VI.A.10 of this permit must, where practicable, be released to vegetated fields for filtering, or captured in secondary containment to minimize discharges to waters of the United States.

11. Upset

a. *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 caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. *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 11.c. of this part are met.

c. *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:

i. An upset occurred and that the permittee can identify the cause(s) of the upset;

ii. The permitted facility was at the time being properly operated; and

iii. The permittee submitted notice of the upset as required in paragraph D.5. of this part (24-hour notice).

iv. The permittee complied with any remedial measures required under paragraph 14. of this part.

d. *Burden of proof*. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

12. *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 and obtain a new permit, except where Part I.G of this permit applies.

13. *Need to halt or reduce activity not a defense*. 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.

14. *Duty to mitigate.* 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.

15. *Inspection and entry*. 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:

a. 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;
b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. Proper Operation and Maintenance

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

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

3. 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 includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. The permittee shall allow the EPA, or an authorized representative of EPA, upon the presentation of credentials and other documents as may be required by law, to:
   a. Enter 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;
   b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
   c. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
   d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. 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 five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Permitting Authority at any time.

4. Records of monitoring information shall 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.

5. The permittee shall follow the following monitoring procedures:
   a. Any required monitoring must be conducted according to test procedures approved in 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
   b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
   c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

D. Reporting Requirements

1. 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 manure 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 a NMP.

2. The permittee shall give advance notice to EPA of any planned physical alterations or additions or changes in activity which may result in noncompliance with requirements in this permit.

3. This permit is not transferable to any person except after notice to EPA R8 CAFO Coordinator. EPA may require modification or revocation and reissuance of the permit to change the name or the permittee and incorporate such other requirements as may be necessary under the CWA.

4. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

5. The permittee shall report any noncompliance that may endanger human health or the environment. Any information must be provided orally to within twenty-four (24) hours from the time that the permittee becomes aware of the circumstances to EPA at 303-293-1788. A written submission shall also be provided to EPA Region 8 Montana Office, NPDES Program within fourteen (14) days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:
   a. A description of the noncompliance and its cause;
   b. 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
   c. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

6. The following shall be included as information which must be reported within twenty-four (24) hours:
   a. Any unanticipated bypass which exceeds any effluent limitation in the permit.
   b. Any upset which exceeds any effluent limitation in the permit.
   c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.

   The Director may waive the written report on a case-by-case basis for reports under the above if the oral report has been received within twenty-four (24) hours.

7. The permittee shall report all instances of noncompliance not reported under above and of this part, at the time monitoring reports are submitted. The reports shall contain the information listed in D.6.

8. 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 EPA, it shall promptly submit such facts or information to EPA.

E. Signatory requirements

All applications, reports, or information submitted to EPA shall be signed and certified consistent with 40 CFR §122.22:

1. All notices of intent shall be signed as follows:

a. For a corporation: By a responsible corporate officer. For the purpose of this part, a responsible corporate officer means:
   i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
   ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

b. For a partnership or sole proprietorship: By a general partner for a partnership or the proprietor, respectively.

2. All reports required by the permit and other information requested by EPA shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
   a. The authorization is made in writing by a person described above;
   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or any individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
   c. The written authorization is submitted to EPA.

F. Certification

Any person signing a document under this part shall make the following certification:
"I certify under penalty of law that this document and all attachments were prepared under my direction or 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 fine and imprisonment for knowing violations."

G. Availability of Reports

Any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

H. Penalties for Violations of Permit Conditions

1. Criminal Penalties:
   a. Negligent violations: The Act provides that any person who negligently violates §§301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing those provisions in a permit issued under §402 is subject to a fine of not less than $2,750 nor more than $37,500 per day of violation, or by imprisonment for not more than one year, or both.
   b. Knowing violations: The Act provides that any person who knowingly violates §§301, 302, 306, 307, 308, 318, or 405 of the Act or any permit conditions implementing those provisions is subject to a fine of not less than $5,500 nor more than $55,000 per day of violation, or by imprisonment for not more than three years, or both.
   c. Knowing endangerment: The Act provides that any person who knowingly violates §§301, 302, 303, 306, 307, 308, 318, or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $275,000, or by imprisonment for not more than 15 years, or both.
   d. False statements: The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $11,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $22,000 per day of violation, or by imprisonment of not more than four years, or by both. [See §309(c)4 of the Act]

2. Civil penalties: The Act provides that any person who violates a permit condition implementing §§301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation. [See §309(d)]

3. Administrative penalties: The Act provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated §§301, 302, 306, 307, 308, 318, or 405 of the Act or a permit condition or limitation implementing these provisions, as follows [See §309(g)]:
   a. Class I penalty: Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.
   b. Class II penalty: Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

PART VII. DEFINITIONS

Animal feeding operation (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any 12-month period, and (ii) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Application means the EPA standard national forms for seeking coverage under an NPDES permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions [e.g. for NPDES general permits, a written "notice of intent" pursuant to 40 CFR §122.28; for NPDES individual permits, Form 1 and 2B pursuant to 40 CFR §122.1(d)].

Concentrated animal feeding operation (CAFO) means an AFO which is defined as a Large CAFO or Medium CAFO by 40 CFR §122.23 (4) and (6), or that is designated as a CAFO.

Director means the Regional Administrator or the State Director, as the context requires, or an authorized representative. When there is no "approved State program," and there is an EPA administered program, "Director" means the Regional Administrator. When there is an approved State program, "Director" normally means the State Director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved State program. (For example, when EPA has issued an NPDES permit prior to the approval of a State program, EPA may retain jurisdiction over that permit after program approval, see §123.1.) In such cases, the term "Director" means the Regional Administrator and not the State Director. (40 CFR §122.2)

E. coli means the bacterial count (Parameter 1) at 40 CFR §136.3 in Table 1A, which also cites the approved methods of analysis.

Grab sample means a sample which is taken from a waste stream on a one-time basis without consideration of the flow rate of the waste stream and without consideration of time.

Land application means the application of manure, litter, or process wastewater onto or incorporated into the soil.

Land application area means land under the control of an CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large CAFO means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories: (i) 700 mature dairy cattle, whether milked or dry; (ii)1,000 veal calves; (iii)1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (iv) 2,500 swine each weighing 55 pounds or more; (v)10,000 swine each weighing less than 55 pounds; (vi) 500 horses; (vii) 10,000 sheep or lambs; (viii) 55,000 turkeys; (ix) 30,000 laying hens or broilers, if

the AFO uses a liquid manure handling system; (x)125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 82,000 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 5,000 ducks (if the AFO uses a liquid manure handling system).

Liquid manure handling system means a system that collects and transports or moves waste material with the use of water, such as in washing of pens and flushing of confinement facilities. This would include the use of water impoundments for manure and/or wastewater treatment.

Manure is defined to include manure, litter, bedding, compost and raw materials or other materials commingled with manure or set aside for land application or other use.

Medium CAFO means any AFO that stables or confines as many or more than the numbers of animals specified in any of the following categories: (i) 200 to 699 mature dairy cattle, whether milked or dry cows; (ii) 300 to 999 veal calves; (iii) 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; (iv) 750 to 2,499 swine each weighing 55 pounds or more; (v) 3,000 to 9,999 swine each weighing less than 55 pounds; (vi)150 to 499 horses, (vii) 3,000 to 9,999 sheep or lambs, (viii) 16,500 to 54,999 turkeys, (ix) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; (x) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system) and either one of the following conditions are met (a) pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or (b) pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process wastewater 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 AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with or is a constituent of raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production area means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal containment 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 area includes but is not limited to settling basins, and areas within berms and diversions which 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 mortalities.

Small CAFO means an AFO that is designated as a CAFO and is not a Medium CAFO.

Setback means a specified distance from waters of the United States or potential conduits to waters of the United States where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.

The Act means Federal Water Pollution Control Act as amended, also known as the Clean Water Act as amended, found at 33 USC §§1251 et seq.

Vegetated buffer means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching waters of the United States.