



PAG-12
AUTHORIZATION TO OPERATE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

FACT SHEET

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* (the "Federal Act"), Pennsylvania's Clean Streams Law (the "State Act"), as amended, 35 P.S. Section 691.1 *et seq.*, and 25 Pa. Code § 92a, the Department of Environmental Protection (DEP) is authorizing operation of Concentrated Animal Feeding Operations (CAFOs) under the PAG-12 General Permit. The purpose of this document is to explain the basis for the effluent limitations framework and terms and conditions of the General Permit, in accordance with 25 Pa. Code § 92a.53 and 40 CFR § 124.8.

SCOPE

DEP is authorized by 25 Pa Code § 92a.54 to develop a NPDES General Permit for CAFOs, as defined in 25 Pa. Code § 92a.29. The PAG-12 General Permit was developed for CAFO facilities that are not operating in watersheds with High quality (HQ) and Exceptional Value (EV) waters.

NOI REQUIREMENTS

Existing CAFO facilities that are eligible for coverage under the General Permit must file an administratively complete and acceptable NOI 180 days prior to the expiration of coverage of their existing CAFO General Permit or Individual Permit authorization. Proposed CAFO facilities who are eligible for coverage under this General Permit must submit an administratively complete and acceptable Notice of Intent (NOI) at least 180 days prior to commencing operations.

The intent of DEP in issuing the PAG-12 General Permit is that once approval to operate under the General Permit has been authorized by DEP, an NOI to renew coverage is required to be filed 180 days prior to the expiration of coverage of the CAFO General Permit authorization. Coverage will continue as long as DEP reissues or extends the General Permit beyond the expiration date.

CHANGES TO APPROVAL FOR COVERAGE:

- Inclusion of animal types and numbers based on current approved nutrient management plan (NMP)
- Additional statement that approval of application is based on any additional supporting documents including NMP

CHANGES TO INTRODUCTION OF AUTHORIZATION TO OPERATE:

- Listing of who may be covered under the permit
- Listing of who may not be covered under the permit
- Summary of Effluent Limitation Guidelines covered by the permit
- List of major and minor conditions under which the permit may be modified

The General Permit applies to operations for which animals (other than aquatic animals) have been, are or will be stabled or confined and feed or maintained for a total of 45 days or more in any 12-month period. The following agricultural operations are eligible for coverage under the General Permit unless conditions exist that would prohibit such coverage (see "CAFO OPERATIONS NOT COVERED BY THIS PERMIT" below):

- a. Concentrated animal operations (CAOs) with 301-1,000 Animal Equivalent Units (AEUs) under 25 Pa. Code § 92a.2;
- b. Any agricultural operation with greater than 1000 AEUs under 25 Pa. Code § 92a.2;
- c. Any agricultural operation defined as a large CAFO under 40 CFR § 122.23(b)(4)
- d. Any agricultural operation defined as a small or medium CAFO under 40 CFR 122.23(b)(6)(i) that has a discharge of pollutants to surface waters as described in 40 CFR § 122.23(b)(6)(ii); or
- e. Any agricultural operation designated as a CAFO by the Environmental Protection Agency or the Department under 40 CFR § 122.23(c).

CAFO OPERATIONS NOT COVERED BY THIS PERMIT

Agricultural operations may NOT be covered by the General Permit when one or more of the following conditions exist:

- a. The designated discharge, individually or in combination with other similar discharges, is or has the potential to be a contributor of pollution, as defined in the State Act, which is more appropriately controlled under an individual permit.
- b. The designated discharger is not, or will not be, in compliance with any one or more of the conditions of the general permit.
- c. The applicant has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, and schedule of compliance or order issued by the Department.
- d. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the designated point source.
- e. Categorical point source effluent limitations are promulgated by the EPA for those point sources covered by the general permit.
- f. The designated discharge is not, or will not, result in compliance with an applicable effluent limitation or water quality standard.
- g. Other designated point sources at the facility require issuance of an individual permit, and issuance of both an individual and a general permit for the facility would constitute an undue administrative burden on the Department.
- h. The Department determines that the action is necessary for any other reason to ensure compliance with the Federal Act, the State Act or this title.
- i. The designated discharge would be to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93.

The eligibility criteria listed are those identified in 25 Pa. Code § 92a.54(e), i.e., conditions that will result in the denial of coverage under a General Permit.

EFFLUENT LIMITATION GUIDELINES (ELGs) COVERED BY THIS PERMIT

Effluent limitation guidelines for permitted CAFOs are listed in 40 CFR § 412 Subparts A through D and 25 Pa. Code §§ 91.36, 102.4(a) and 25 Pa. Code Chapter 83, Subchapters D and G (relating to Nutrient Management and Facility Odor Management). CAFOs are not allowed to discharge pollutants from the production areas to surface water or to groundwater except whenever rainfall events cause an overflow of agricultural process wastewater from a facility designed, constructed, operated and maintained to contain all process-generated wastewaters plus the runoff from the design rainfall at the location of the facility. The applicable design rainfall events for animal types are:

Animal types	Applicable ELG
Horses and/or Sheep	25 year - 24 hour rainfall
Ducks (wet lot)	limitations specified in 40 CFR § 412.22
Ducks (dry lot)	25 year - 24 hour rainfall
Dairy Cows, and/or Cattle other than Veal	25 year - 24 hour rainfall
Swine, Veal and/or Poultry (on or before April 14, 2003)	25 year – 24 hour rainfall
Swine, Veal and/or Poultry (after April 14, 2003)	100 year - 24 hour rainfall

For Dairy, beef cattle, veal calves, swine and poultry, ELGs also apply to land areas on which manure, litter, and agricultural wastewater is applied as listed in 40 CFR § 412.4. These ELGs are met by implementing an approved Nutrient Management Plan (NMP) that incorporates management practices to manage the use of plant nutrients for crop production and water quality protection in accordance with Chapter 83, Subchapter D (relating to nutrient management) and 40 CFR § 122.42(e)(i-ix).

For manure storage on CAFOs operating under this permit, the manure storage facilities must be designed, constructed, operated and maintained to collect all manure, litter, and agricultural wastewater from the production area unless other facilities have been designed and constructed to handle non-manure contaminated agricultural process wastewater. The manure storage facilities must be sized to ensure that there is adequate storage space between periods of application so that the permittee does not exceed application rates established in the current approved NMP developed under Chapter 83, Subchapter D. The manure storage facility must be designed, constructed, operated,

and maintained to ensure that the facility is structurally sound, watertight, and located and sized properly to prevent pollution to groundwater and the discharge of pollutants to surface water for any storm up to and including the design rainfall event. All manure storage facilities must maintain a minimum freeboard requirement at all times.

PERMIT MODIFICATIONS

Major and minor modifications to this permit shall be completed in accordance with 40 CFR § 122.62 and 40 CFR § 122.63, respectively. Major modifications are required to be publically noticed. Minor modifications are not required to be publically noticed. Major modifications include, but are not limited to:

- a. There is material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justifies the application of permit conditions that are different or absent in the existing permit.
- b. New information becomes available that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.
- c. Standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.
- d. Good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an NPDES compliance schedule be modified to extend beyond an applicable Clean Water Act (CWA) statutory deadline.
- e. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

Minor modifications include:

- a. Correct typographical errors.
- b. Require more frequent monitoring or reporting by the permittee.
- c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement.
- d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
- e. Incorporate changes to the terms of a CAFO's nutrient management plan that have been revised in accordance with the requirements of Chapter 83, Subchapter D (relating to nutrient management) and 40 CFR §122.42(e)(6).

GENERAL PROVISIONS

The General permit authorizes the permittee to operate a CAFO subject to the conditions of this permit. New CAFO operations may not populate the operation with animals until authorized to do based upon both of the following:

- a. The applicant has submitted a completed Notice of Intent (NOI).
- b. The applicant has obtained Approval of Coverage the PAG-12 General Permit.

ADDITIONAL PROVISIONS

CHANGES TO ADDITIONAL PROVISIONS SECTION:

- Requirement for notifying the Department when the Permittee proposes to increase the animal AEUs managed on the facility to more than 110% of the number of AEUs listed the NMP. A proposed increase in AEUs may require a permit amendment or NMP amendment which must be approved before the animal population is increased.

The authority granted by this General Permit is further subject to the following conditions:

- a. Upon written notification by the Department, any person authorized to operate under this General Permit may be required to apply for and obtain an Individual NPDES permit.
- b. If the person fails to submit, in a timely manner, an Individual NPDES permit application required by the Department, the coverage under this General Permit shall continue unless coverage is terminated by the Department at the end of the day specified by the Department's notice for application submittal.
- c. A permittee may request the Department to terminate its Approval for Coverage and issue an individual permit. If an Individual NPDES permit is denied to such a permittee, the permittee may continue operating if all eligibility requirements under the General Permit continue to be met.
- d. When an Individual NPDES permit is issued to a person authorized to operate under this General Permit, the applicability of this General Permit to the Individual NPDES permittee is automatically terminated on the effective date of the Individual Permit.
- e. This General Permit may be renewed, modified, suspended, terminated, or revoked and reissued by the Department.
- f. General Permit authorization expires at midnight five (5) years after the issuance date specified on the Approval for Coverage.
- g. An NOI for renewal of coverage under this permit must be submitted to the Department at least 180 days prior to the Coverage Expiration Date on the Approval for Coverage, unless written permission has been granted by the Department for submission at a later date.
- h. Permittees, who submit a timely and complete renewal application, may continue to operate pursuant to the terms and conditions of this permit until coverage under the General Permit is renewed, modified or revoked and reissued.
- i. The Department will publish a notice in the Pennsylvania Bulletin of the draft renewed, modified, or reissued general permit before it expires. After a comment period specified in the notice of draft permit, a notice of final renewal, modification, or reissuance of the General Permit will be published in the Pennsylvania Bulletin.
- j. Exceeding the AEUs allowed in the Nutrient Management Plan (NMP) is a violation of the general permit. The permittee must notify the Department in writing of any proposed change in AEUs greater than 110 percent of the number of AEUs listed in the NMP and shall describe the proposed changes. This notification shall be submitted at least 45 days prior to implementing the proposed change unless a shorter period of time is approved by the Department in writing. A proposed increase in the AEUs managed on the facility may require an amendment to the permit and the NMP. Any permit amendment or NMP amendment required for a proposed increase in AEUs must be approved before the animal population is increased.
- k. It is unlawful for this permittee to discharge pollutants to waters of this Commonwealth except as allowed by applicable state or federal regulations or this permit.
- l. No condition of this General Permit shall release the permittee from any responsibility or requirements under other federal or Pennsylvania environmental statutes or regulations.

PART A, Subpart I, SELF-MONITORING, REPORTING AND RECORDKEEPING

Subsection A – Definitions

CHANGES TO PART A – DEFINITIONS:

Definitions with revised or additional wording

Agricultural process wastewater	Manure storage
Animal equivalent unit (AEU)	Nutrient management plan
Concentrated animal feeding operations (CAFOs)	

Additional Definitions

Animal feeding operation (AFO)	Medium concentrated animal feeding operation
Animal heavy use area	New source
Agricultural stormwater	Overflow
Erosion and sediment control plan	Setback
Freeboard	Small concentrated animal feeding operation
Land application area	Vegetative buffer
Large concentrated animal feeding operation	Wet weather event
Manure	Winter

Subsection B – Effluent Limitations

CHANGES TO Subsection B:

- Includes citations for applicable effluent limitations under 40 CFR 412 and 40 CFR 122.
- Manure storage facilities must be sized to ensure there is adequate capacity to implement the NMP.
- Any manure storage must be fitted with a depth marker.
- A 100 foot setback, or a 35 foot vegetative setback for manure applications is clarified as a setback from surface water, conduits to surface water, open tile line intake structures, sinkholes, agricultural well heads, and other conduits to surface water.

This section provides narrative effluent limits to protect water quality.

- a. Requirement to develop and implement a NMP under Chapter 83, Subchapter D and 40 CFR § 122.42(e)(1)(i-ix) including BMPs for land areas, manure storage facilities and any non-manure contaminate agricultural process wastewater storages.
- b. Manure storage facilities must be designed, constructed, operated and maintained for proper operation
- c. The manure storage facilities must be sized to ensure there sufficient storage space between periods of application specified in the NMP. Required freeboard, the rain for the design storm and settable solids need to be taken into consideration.
- d. Any manure storage must be fitted with a depth marker.
- e. For manure applications requirement to implement a 100 foot setback, or a 35 foot vegetative setback, from surface water, conduits to surface water, open tile line intake structures, sinkholes, agricultural well heads, and other conduits to surface water.
- f. All manure storage facilities must maintain a minimum freeboard requirement.
- g. Manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water from storm events up to and including the 25-year, 24-hour storm.

Subsection C – Self-Monitoring, Reporting and Record Keeping

CHANGES TO Subsection C:

- Daily inspection of drinking water and cooling water lines.
- Weekly recording of liquid level in manure storage facilities.
- Recording of weather conditions during land application of manure and for 24 hours prior to and following application.
- Maintaining records on site of the current designs of manure storage facilities or any other waste storage facility.
- Maintaining records of the amount of nitrogen and phosphorous planned and applied to each field from all sources.
- Maintain records of test methods use to sample manure, litter and agricultural process wastewater.

In general, these requirements are used in DEP's NPDES permits, and identify the following key elements of monitoring, reporting and recordkeeping under the General Permit that are generally required by state and federal regulations. More specific conditions applicable to operations covered by the General Permit are:

- a. Daily inspections of drinking and cooling waterlines and weekly inspections of the production areas including manure storage facilities and periodic inspection of land application equipment as described in the General Permit.
- b. Sampling of discharges from the perimeter and/or leak detection system, test procedures for analysis of samples, recordkeeping requirements when sampling and non-compliance reporting.
- c. Recording of weather conditions at the time of land application of manure, and for 24 hours prior to and following applications.
- d. Recording of mortality management practices use by the CAFO.
- e. Complete and maintain records of the amount of manure exported to other persons.
- f. Maintain on site a copy of the current NMP, including all copies of revisions and amendments.
- g. Maintain records of the planned amount and actual amount of nitrogen and Phosphorous applied to all fields from all sources.
- h. Submittal of an annual report that covers the period January 1 through December 30. This report is due February 15th of the following year.
- i. Requirements to maintain records of self-inspections using form provided by DEP or other suitable forms that are used to record the information required by the permit.

PART B, MANAGEMENT REQUIREMENTS, PENALTIES AND LIABILITY AND OTHER RESPONSIBILITIES

In general, these requirements are used in DEP's General NPDES permits, and identify other responsibilities of permittees that are covered under the General Permit, including:

- a. Procedure for permit Renewal, Modification, Suspension, Termination, or Revocation and Reissuance.
- b. Duties to provide information to DEP.
- c. Duty to properly operate and maintenance facilities.
- d. Penalties and liabilities for violating permit conditions or limitations, or falsifying information.
- e. Provisions to provide entry to DEP and EPA to the facility, have access to records, and inspect and monitor facility operations at reasonable times.
- f. Procedures for transferring coverage under the PAG-12 General Permit.
- g. Clarification that property rights are not conveyed by coverage under the PAG-12 General Permit.
- h. Duty to reapply when notified by DEP in writing.
- i. Duties to mitigate to prevent discharges, sludge use or disposal.
- j. Procedures for Notice of Termination of the PAG-12 General Permit.

PART C, Subpart I – SPECIAL PERMIT REQUIREMENTS

These requirements are specific to the CAFO PAG-12 General Permit and include:

- A. Nutrient Management Plan (NMP) - The requirements to implement a NMP under 40 CFR § 122.42(e)(i-ix) and reference to the section of the PAG-12 permit or other permit documents that apply are listed below:

The following list of the nine federal requirements for a NMP is new.

- a. 40 CFR § 122.42(e)(1)(i) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities.
This requirement is addressed in Part A.I.B.1(a) of the PAG-12 General Permit.
- b. 40 CFR § 122.42(e)(ii) 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.
This requirement is addressed in Part C.I.E of the PAG-12 General Permit.
- c. 40 CFR § 122.42(e)(iii) Ensure that clean water is diverted, as appropriate, from the production area.
This requirement is addressed in Part A.I.B.3 of the PAG-12 General Permit. Inspection and assessment of manure storage facility storm water diversion devices and runoff diversion structures are addressed in Part A.I.C.1(b) of the PAG-12 General Permit
- d. 40 CFR § 122.42(e)(iv) Prevent direct contact of confined animals with the waters of the United States.
As required in the NMP, all animal concentrations areas (ACAs) associated with the production area are to be managed to prevent discharge of pollutants to surface water. Appendix 6 of the NMP provides that animal access to surface water in ACA's must be limited to properly installed stream crossings as needed for animals and equipment.
- e. 40 CFR § 122.42(e)(v) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, agricultural process water or treatment system unless specifically designed to treat such chemicals and contaminants.
This requirement is addressed in Part C.I.G of the PAG-12 General Permit.
- f. 40 CFR § 122.42(e)(vi) 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.
The NPDES permit application requirements for the PAG-12 General Permit require submittal of an NMP, Erosion and Sediment Plan, and a Preparedness, Prevention and Contingency Plan. The collective actions and BMPs to be implemented under these plans meet the requirement to control runoff of pollutants to waters of the United States.
- g. 40 CFR § 122.42(e)(vii) Identify protocols for appropriate testing of manure, litter, process water and soil.
Protocols for the collection and analysis of manure, which by definition includes litter and agricultural process wastewater, are listed in 25 Pa. Code § 83.291 that is referenced in Part C.I.A(11) of the PAG-12 General Permit. Soil collect and analysis protocols are listed in 25 Pa. Code § 83.292 that is referenced in Part C.I.A(12) of the General Permit
- h. 40 CFR § 122.42(e)(viii) 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, process water.
These requirements are addressed in Part C.I.A, Nutrient Management Plans and Manure Management. These protocols are collectively addressed in the NMP and are presented in the following appendices of the Pennsylvania Nutrient Management Program Technical Program Guidance Document: Appendix 3 - Manure Group Information, Appendix 4 – Crop and Manure Management Information, Appendix 5 - the Pennsylvania Phosphorous Index, Appendix 6 - Manure Management, Appendix 7 - Stormwater, and Appendix 8, Importer/Broker Agreement and Nutrient Balance Sheets. These appendices are required components of the NMP as are any supporting documents that were used in the development of the NMP. The protocols in the Guidance document are consistent with Pa. Code 25 Chapter 83 D Subchapter D (relating to Nutrient Management).
- i. 40 CFR § 122.42(e)(ix) identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (e)(i) – (e)(viii) listed above.

This requirement is addressed in Part A.I.C of the PAG-12 General Permit.

CHANGES TO Nutrient Management Plan (NMP) include:

- Reference to the NMP requirements listed under 40 CFR § 122.42(e)(1)(i-ix) and that all proposed changes to the NMP are subject to 40 CFR § 122.42(e)(6) list above.
- Deletion of delayed implementation of the new phosphorous-base planning and manure export requirements.
- Listing of setbacks when mechanically applying manure.
- Listing of citation for winter spreading of manure and a listing of the setbacks required when land applying manure during winter.
- Requirement to provide a copy of the most recent manure sampling results to the person receiving the manure.

The Permittee must develop implement a NMP including all BMPs in the plan approved under 25 Pa. Code Chapter 83, Subchapter D, as amended and 40 CFR § 122.42(e)(1)(i-ix), including phosphorus-based planning under revisions to 25 Pa. Code §83.293 and effective October 1, 2006.

- a. Copies of new, amended or revised NMPs shall be submitted to DEP within 30 days and maintained on site for 5 years.
 - b. The NMP shall be reviewed annually and must be renewed at least once every three years.
 - c. Manure may not be mechanically applied within 100 feet of the top of the bank of a perennial or intermittent stream with a defined bed and bank, a lake or a pond or within 100 feet of an existing open sinkhole unless a permanent vegetated buffer of at least 35 feet in width is used; within 100 feet of active private drinking water sources such as wells, springs or an active public drinking water source, unless other State or Federal laws or regulations require a greater isolation distance; and on crop management units (CMUs) having less than 25% plant cover or crop residue at the time of manure application unless he CMUs are planted with a cover crop or to a crop that growing season.
 - d. Manure may not be applied during the winter as defined in 25 Pa. Code § 83.201, except as authorized in the permittee's Nutrient Management Plan, or unless the permittee has obtained a plan amendment due to unforeseen circumstances. There shall be no winter application within 100 ft. of an above ground agricultural drain inlet where surface flow is toward the inlet, 100 foot of a wetland on the National Wetland Inventory maps that is within the 100 year floodplain of an EV stream segment and if surface flow is toward the wetland and on fields with less than 25% cover or without an established cover crop.
 - e. Manure generated by the CAFO shall be managed, hauled, and transported in compliance with requirements of the Commercial Manure Hauler and Broker Certification Act and regulations. The permittee shall provide a copy of the most recent manure and agricultural wastewater sampling results to the person receiving the manure and agricultural wastewater or his representative.
 - f. Manure Stockpiling: Manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water during a storm event up to and including the appropriate design rainfall for that type of operation under 25 Pa. Code § 91.36(a)(1) and (5).
 - g. Manure tests are required to be taken annually for each manure type generated on the operation in compliance with 25 Pa. Code § 83.291.
 - h. Soil tests are required for each crop management unit at least every three years from the date of the last test in conformance with 25 Pa. Code § 83.292.
- B. Preparedness, Prevention and Contingency Plan (PCC Plan)
- a. Requirement to implement and maintain the Preparedness, Prevention, and Contingency (PPC) Plan submitted with the NOI application for this CAFO. The PPC Plan must be kept at the site at all times.
 - b. Chemicals and other contaminants handled on-site must not be disposed of in any manure, liter, agricultural process wastewater, or stormwater storage or treatment system, unless it is specifically designed to treat such chemicals and contaminants.

C. Erosion and Sediment Control Plans (E&S Plans)

CHANGES TO Erosion and Sediment Control Plans include:

- The E&S must include an implementation plan or prescribed BMPs.

- a. Requirement to implement and, when needed, update the E&S Plan for plowing or tilling activities and Animal Heavy Use Area operations on all land owned or leased by the permittee in accordance with 25 Pa. Code Chapter 102. The revised plans must provide appropriate BMPs including a schedule for implementation in accordance with 25 Pa. Code § 102.4(a).
- b. When applicable, requirement to develop and implement an E&S Plan on-site at all times during construction of facilities, such as buildings or manure storage facilities meeting the requirements of 25 Pa. Code § 102.4(b) for earth disturbance activities other than agricultural plowing or tilling or animal heavy use areas.

D. NPDES Permit for Stormwater Discharges during Construction Activities

The permittee shall obtain a separate NPDES permit for stormwater discharges associated with construction activity meeting the requirements of Chapter 102 (relating to erosion and sediment control) when applicable and 25 Pa. Code Chapter 92a (relating to NPDES permits).

E. Animal Mortality

CHANGES TO Animal Mortality include:

- Additional text has been added

The permittee shall comply with 3 Pa. C.S.A. § 2357 et seq. (relating to the Domestic Animal Law) and § 243.11 when handling and disposing of dead animals. The carcass of a dead animal not killed for food shall be removed and disposed of by burial or incineration or some other sanitary method, such as rendering and composting where applicable, within 24 hours after death. If the carcass is buried it shall be placed so that every part shall be covered by at least 2 feet of earth and at a location not less than 100 feet from waters of this Commonwealth, and located out of the 100-yr flood plain. In all cases of death from communicable disease the carcass shall be thoroughly enveloped in unslaked lime. If composted, the compost shall be accounted for in the NMP. Mortalities shall not be disposed of in any liquid manure or process wastewater system.

F. Manure Storage Structures and Water Quality Management Permit Requirements

CHANGES TO Manure Storage Structures and Water Quality Management Permit Requirements include:

- Additional citations have been added to item a.
- Additional text has been added which is summarized in items b, c, d, e, f and g.

- a. The permittee shall keep engineering certifications on-site for any liquid or semi-solid manure storage facilities at the operation and shall also maintain the current design of the manure or litter storage structures on site, as required by 40 CFR § 412.47 and 412.37(b)(5). The permittee shall obtain a Water Quality Management permit when required under 25 Pa. Code § 91.36(a).
- b. The permittee shall maintain a minimum 12-inch freeboard for manure storage facilities that are ponds, and a minimum 6-inch freeboard for all other manure storage facilities.
- c. The permittee shall install and maintain permanent markers or gauges within the structure to determine freeboard. All open surface liquid impoundments and all new facilities must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation associated with the design storm use in sizing the impoundment for no discharge.
- d. The permittee shall maintain vegetative growth on the embankments of the earthen manure storage facility at a height no greater than 12 inches to allow for inspection of the embankment, and shall prevent the growth of dense or woody vegetation with roots that may affect the structural integrity of the impoundment or the impoundment liner. Animal burrows should be excavated, backfilled with suitable material in well compacted four-inch lifts and reseeded.

- e. The NMP must contain a determination of adequate manure storage capacity, accounting for the required freeboard, precipitation from the design storm, and residual solids after liquids have been removed.
- f. The permittee cannot apply manure during the winter months unless expressly authorized to do so in the NMP. Sufficient capacity shall be provided at the start of winter to implement the NMP. By January 15th each permittee with manure storage must provide the Department with notification, in writing, of the available manure storage in feet and inches observed on or about December 15th and the amount of manure that is expected to be generated over the winter. For operations with a liquid or semi-solids storage, the available capacity in inches and feet should be reported. For operations with a solids only storage, the estimated volume of available storage should be reported. The manure storage capacity does not include the freeboard portion of the manure storage facility. If the manure storage capacity does not have sufficient capacity to hold all the manure generated over the winter, and the NMP does not authorize winter application, the permittee must submit and receive approval for a NMP amendment that describes how the permittee will manage the manure and the manure storage facility to insure that the minimum freeboard requirement is not violated.
- g. The Permittee shall, on at least a weekly basis, inspect all manure storages and record the results of the inspection on the Manure Storage Facility Record Monthly Inspection form or similar form used for this purpose. This storage shall be inspected for visible cracking, rodent holes, tree and shrub growth on the berms or other problems with the manure storages that would lead to leakage. Visible slope failure, visible tears of any liner, or knowledge of any local water pollution issues associated with the storage facility shall be recorded.

G. Storage of Feed and other Raw Materials

CHANGES TO Storage of Feed and other Raw materials include:

- Additional text dealing with disposal of chemicals or other contaminants has been added.

The permittee shall implement measures and/or BMPs to prevent discharge to surface water from raw material storage areas, including feed storages. Chemicals and other contaminants handled on-site must not be disposed of in any manure, litter, and agricultural process water or treatment system unless specifically designed to treat such chemicals and contaminants.

H. Best Management Practices (BMPs)

CHANGES TO Best Management Practices (BMPs) include:

- Addition of paragraph addressing BMPs listed in Pennsylvania's Watershed Implementation Plan for the Chesapeake Bay.

BMPs for CAFOs are identified in the operation's Nutrient Management Plan and the Erosion and Sediment Control Plan for plowing or tilling activities or for Animal Heavy Use Area operations. At a minimum, the permittee shall implement these BMPs.

The Department may require additional BMPs and controls to protect public health and to protect, maintain and restore water quality and the existing and designated uses of waters of the Commonwealth. For facilities within the Chesapeake Bay watershed, this may include additional BMPs listed in Pennsylvania's Watershed Implementation Plan for Chesapeake Bay. These BMPs may include, but are not limited to, Conservation Tillage, Continuous No-Till, Commodity Cover or Cover Crop, Pasture Management, Dairy precision feeding and use of phytase.