

Permit No.: **OR0000000**
 Issuance Date: **Month XX, 2016**
 Expiration Date: **Month XX, 2021**
 [5 years after issuance]

OREGON CONFINED ANIMAL FEEDING OPERATION
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 INDIVIDUAL PERMIT #**OR0000000000**

Public Notice Version

State of Oregon
 Department of Agriculture
 Confined Animal Feeding Operation Program
 and
 Department of Environmental Quality
 Water Quality Division

In compliance with the provisions of Oregon Revised Statutes (ORS) Chapter 468B, Oregon Administrative Rules (OAR) Chapter 340, Divisions 40, 45 and 51 and Chapter 603, Division 74, the Federal Water Pollution Control Act as amended (The Clean Water Act), Title 33 United States Code, Section 1251 et seq., and the National Pollutant Discharge Elimination System (NPDES) program.

FACILITY	SOURCES COVERED BY THIS PERMIT
Lost Valley Ranch Greg te Velde Homestead Ln. Hermiston, OR 97838	<i>Type of Waste:</i> CAFO Dairy waste and wastewater. <i>Method of Utilization/Disposal:</i> Wastewater lagoons, Bedding, land application and export.
CAFO TYPE AND LOCATION	RIVER BASIN INFORMATION
<i>Type:</i> Dairy and heifer CAFO <i>Location:</i> Homestead Ln. 1.5 miles east of the intersection of Homestead Ln. and Poleline Rd. Hermiston, OR 97838 <i>Waste and wastewater Land Application Site:</i> Approximately 5,189 acres of irrigated cropland adjacent to the facility. <i>Latitude/Longitude:</i> 45.747824, -119.570086 Township 2N, Range 26E of Tax lot 302 and Township 3N, Range 26E of Tax lots 500, 1401 and 1506)	<i>Basin:</i> Umatilla <i>Sub-basin:</i> Middle Columbia – Lake Wallula and Umatilla <i>Hydro Code:</i> 17070101 <i>County:</i> Morrow <i>Nearest surface stream which would receive waste if it were to discharge:</i> Columbia Improvement District Canal <i>Applicable Standards:</i> OAR Chapter 340-040, OAR 340-041-0642 to 0665 and OAR 340-051-0005 to 0080
EPA REFERNCE NO.: OR0000000	

 Ray Jaendl, Director
 Natural Resources and Pesticides
 Oregon Department of Agriculture (ODA)

 Don Butcher
 Eastern Region Water Quality Section Manager
 Oregon Department of Environmental Quality (DEQ)

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to discharge to waters of the state in accordance with the special and general conditions that follow.

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SPECIAL CONDITIONS

DEFINITIONS

1. “25-year, 24-hour rainfall event” means an event with a probable recurrence interval of once in twenty-five years as defined by the National Weather Service in Technical Paper Number 40, “Rainfall Frequency Atlas of the United States,” May 1961, or equivalent regional or state rainfall probability information developed from this source.
2. “40 CFR” means Title 40 of the Code of Federal Regulations (2014).
3. “Agency” means Oregon Department of Environmental Quality or Oregon Department of Agriculture.
4. “Agricultural stormwater” is defined at 40 CFR § 122.23(e).
5. “Animal waste management plan” or “AWMP” or “waste management plan” means a written document containing the minimum elements necessary to manage manure, litter, and process wastewater from operations covered by this permit in accordance with the terms and conditions of this permit.
6. “Agronomic application rate” means the rate or amount of nutrients applied to the soil for utilization by growing or planned crops such that the crops remove the same or greater amount of nutrients provided by the agronomic application.
7. “Bedding,” means any absorbent material that is used to provide animal cleanliness and comfort in a confinement system. Bedding materials include but are not limited to: straw; sawdust; wood shavings; grass seed cleanings; recycled, composted, or dried manure solids; and recycled paper products. Bedding that comes into contact with animals, manure, litter, or process wastewater is determined to be manure, litter, or process wastewater for purposes of this permit.
8. “Confined animal feeding operation” or “CAFO” as defined in OAR 603-074-0010(3) and OAR 340-051-0010(2) means:
 - (a) The concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, or swine feeding areas, dairy confinement areas, slaughterhouse or shipping terminal holding pens, poultry and egg production facilities and fur farms:
 - (i) In buildings or in pens or lots where the surface has been prepared with concrete, rock or fibrous material to support animals in wet weather; or
 - (ii) That have wastewater treatment works; or
 - (iii) That discharge any wastes into waters of the state; or
 - (b) An animal feeding operation that is subject to regulation as a concentrated animal feeding operation pursuant to 40 CFR § 122.23.
9. “Director” means the director of the State of Oregon Department of Environmental Quality or director of the State of Oregon Department of Agriculture or their authorized designee(s).
10. “Discharge” when used without qualification means the “discharge of a pollutant.” “Discharge of a pollutant” is defined at [40 CFR § 122.2](#).
11. “Dry waste” means any solid manure, litter, bedding, or waste feed that cannot be transferred or applied with a pump or pipe system. Precipitation that comes into contact with dry waste does not change dry waste into wet waste. Dry waste may contain urine, manure, leachate or incidental process wastewater that has been absorbed into the feces, and used bedding materials in amounts that allow the waste to retain the dry characteristic so that the material cannot be transferred or applied with a pump or through a pipe.
12. “Dry waste treatment works” means any plant or other works used for the purpose of treating, stabilizing or holding wastes as a dry, solid substance. Dry waste treatment works for purposes of this permit do not utilize pumps or pipes to transfer or apply dry waste and typically do not need any added water or liquid to transfer or apply dry waste. Dry waste treatment works include but are not limited to manure piles and covered dry manure stack storage facilities.
13. “Dry-weather discharge” means a discharge of manure, litter or process wastewater from a land application area that is not defined as Agricultural Stormwater (40 CFR 122.23(e)) and where the land application of manure, litter, or process wastewater has not met all the site-specific nutrient management practices contained in the agency-approved Animal Waste Management Plan and specified in 40 CFR 122.42(e)(1)(vi)-(xi). Dry weather discharges include but are not limited to: discharges through tile drains, discharges combined with irrigation water, infiltration of nutrients below the crop root zone, discharges due to failure of manure application or irrigation equipment.

14. "Frozen soil," means soil that has a soil temperature of 32° F (or 0° C) or less in any three (3) continuous inches of the top 12 inches of soil.
15. "Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.
16. Does "litter" need to be defined?
17. "Manure" means solids or liquids excreted from an animal or other material (for example, bedding, compost, litter, feed waste, silage leachate, raw materials such as feed or silage) that comes into contact with solid or liquid excreted from an animal.
18. "OAR" means Oregon Administrative Rule.
19. "ORS" means Oregon Revised Statute.
20. "Overflow," means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or stormwater can be contained by the structure.
21. "Person" is defined at ORS 468.005
22. "Point source" is defined at 40 CFR § 122.2
23. "Pollutant" is defined at [40 CFR § 122.2](#).
24. "Pollution" or "water pollution" is defined at ORS 468B.005(5).
25. "Process wastewater" or "process wastes" means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater or process wastes also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding. OAR 340-051-0010(5) and OAR 603-074-0010(17)
26. "Production area" means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment areas include but are not limited to settling basins, and areas within berms and diversions that separate uncontaminated stormwater. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of animal mortalities. OAR 340-051-0010(6) and OAR 603-074-0010(18)
27. Quantitation Limits (QLs) – The QL is the minimum level, concentration or quantity of a target analyte that can be reported with a specified degree of confidence. It is the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration for the analyte. It is normally equivalent to the concentration of the lowest calibration standard adjusted for sample weights, volumes, preparation and cleanup procedures employed. The QL as reported by a laboratory is also sometimes referred to as the Method Reporting Limit (MRL) or Limit of Quantitation (LOQ).
28. "Saturated soil" means soil with all available pore space filled that has reached its maximum retentive capacity as defined in "Qualitative Description of Soil Wetness" (Brady, N. and Weil, R., p. 201, 2007).
29. "Setback" as defined at 40 CFR §412.4(b)(1) means a specified distance from surface water or potential conduits to surface water where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface water include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.
30. "Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes. ORS 468B.005(8)
31. "Vegetative buffer" as defined at 40 CFR §412.4(b)(2) 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 surface water.

32. "Waste storage facilities," means the physical system used for the isolation and retention of process wastes on the confined animal feeding operation until their ultimate utilization.
33. "Wastes" is defined at ORS 468B.005(9).
34. "Water" or "waters of the state" is defined at ORS 468B.005(10).
35. "Waters of the U.S." is defined at [40 CFR § 122.2](#).
36. "Wet waste," means any liquid manure, contaminated stormwater, process wastewater, liquid feed waste and silage or manure leachate. Wet waste may include solid material particles that are suspended or dissolved in the liquid.
37. "Wet waste treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wet wastes. Wet waste treatment works for purposes of this permit include, but are not limited to: tanks or lagoons to store wet waste; pumps, pipes, curbs, gutters, and collection sumps to direct, collect, transfer, or apply wet wastes; and any system that separates dry waste from wet waste.

S1. PERMIT COVERAGE

S1.A. What activities are covered by this permit?

1. This permit covers the discharge of pollutants resulting from processes, wastes, and operations that are properly identified by the registrant through its AWMP approved by ODA.
2. This permit does not cover disposal of human wastes or treatment works that mix human and animal wastes. Any person owning or operating such a system must apply to DEQ for coverage under an individual or general permit issued pursuant to ORS 468B.050. This permit may be used in addition to an individual or general permit issued by DEQ pursuant to ORS 468B.050 that covers some other type of wastewater at this same facility, for example, septic system wastewater.
3. Pursuant to 40 CFR § 122.23(e), precipitation-related discharges that qualify as agricultural stormwater discharges from land application areas are not subject to NPDES permit requirements. For discharges from the land application area to meet the definition of agricultural stormwater, manure and wastewater must be applied in accordance with site specific practices listed in the agency-approved AWMP that ensure appropriate agricultural utilization of nutrients.

S1.B. Will my information be kept confidential?

Information, including the name and address of an NPDES permit applicant or permittee, NPDES permit applications and attachments (for example, AWMPs), NPDES permits, and NPDES permit discharge data cannot be kept confidential pursuant to 40 CFR § 122.7(b) and (c), ORS 468.095(1), and ORS 192.410 to 192.505. The applicant or permittee may request that the director classify other records as confidential upon a proper showing that the record is a trade secret pursuant to ORS 468.095(2).

S1.C. How do I transfer permit coverage to a new owner or operator?

The permittee must complete a Permit transfer form and submit it to the agency for approval at least 30 days before transfer of the CAFO is scheduled to occur or as specified by the agency. The form must be signed by the previous owner or operator as well as the new owner or operator. The agency will respond to the request for transfer by conducting a site inspection and a review of the permit file. The agency will notify the permittee and transferee in writing of transfer of coverage under this permit or deny the request with an explanation of why the request was denied.

S1.D. How do I renew permit coverage?

To renew permit coverage, the permittee must submit to the agency a renewal application at least 180 days before the expiration date of this permit or as specified by the agency in the renewal notice but no later than the expiration date of this permit. Applicants must certify on their renewal application whether an AWMP is new, updated or current and on file. New and updated animal waste management plans must be submitted with the application.

S1.E. How do I terminate permit coverage?

1. The agency will terminate coverage under this permit upon issuance of coverage under a general NPDES permit or coverage under an individual or general water pollution control facility permit.
2. The permittee may request in writing to the agency that the permit be terminated if any one of the following applies:
 - (a) Conditions or standards have changed so that the CAFO no longer qualifies for or is required to have coverage under this permit.
 - (b) The permittee no longer has animals on site and all waste storage and control facilities have been cleaned and re-purposed or decommissioned in accordance with the following requirements:
 - (i) Cleaning/Re-purposing Requirements
 - (1) All liquid and solid manure, litter and process wastewater must be removed from the structure(s) and either land applied according to the agency-approved AWMP or exported according to S2.K, p. 10
 - (2) All liquid storage facilities that could fill with rain water must be flushed with clean water, the flush water land applied or exported and the remaining liquid in the structure tested to confirm the *E. coli* level is at or below the water quality standard of 406 CFU/100ml of sample.
 - (3) All liquid transfer systems are cleaned and modified so that they would not be a conduit for any pollutant to enter surface or ground waters.
 - (ii) Decommissioning Requirements
 - (1) All liquid and solid manure, litter and process wastewater must be removed from the structure(s) and either land applied according to the approved AWMP or exported according to S2.K, p. 10.
 - (2) If the structure has a synthetic liner, the liner must be removed and disposed, or recycled, in a lawful manner.
 - (3) After completion of [ii(1)] above, any earthen structure must be filled with soil and returned to the grade matching the surrounding area. All soil fill and remaining exposed soil must be seeded to site-appropriate grass or ground cover to prevent erosion.
3. The permittee must also certify that it will not commence operation of a regulated CAFO at the same location until the appropriate NPDES or WPCF permit coverage has been obtained.
4. The agency will respond to the request for cancellation by conducting a site inspection and a review of the permit file. The agency will notify the permittee in writing of termination of coverage under this permit or deny the request with an explanation of why the request was denied.

S1.F. What are the public notice and participation requirements of this permit?

1. Prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to an AWMP, the agency will provide public notice and participation opportunity including a public hearing. The agency will provide at least 30 days notice before the hearing is held. The public comment period will remain open for additional comments for at least seven (7) days after the public hearing.
2. Application and permit documents (for example, Application to Register, renewal application, AWMP, Land Use Compatibility Statement) will be available for public review at ODA headquarters and appropriate field offices. Electronic copies of documents will be provided upon request.

S1.G. NPDES Public Notice Requirements:

1. Receipt of an application for existing operation not currently under an NPDES permit or new proposed operation.
 - (a) Public notice of a comment period of at least 35 days provided as follows:
 - Published in regional newspaper;
 - Posted on agency websites;
 - Emailed to interested persons list maintained by ODA; and
 - Public notice contents: name of operation, name of operator or owner if different than operator, mailing address, and telephone number, physical address of operation, type of operation, number of animals proposed, Land Use Compatibility Statement, Summary of AWMP.
 - (b) Opportunity for public hearing (See S1.F.4).
 - (c) A written response to relevant comments will be developed by the agency and made available to interested person.
2. Receipt of renewal application or proposed substantial change to permittees AWMP (See S3.D.1(a)).
 - (a) Public notice of a comment period of at least 35 days provided as follows:
 - Posted on agency websites;
 - Emailed to interested persons list maintained by ODA; and
 - Public notice contents: name of operation; city, county, and zip code of facility location; permit registration number; and type of operation. For a substantial change to an AWMP the notice will also contain an overview of the proposed substantial change.
 - (b) Agency will notify the permittee of its final decision concerning the proposed changes after the public notice period ends.

S2. DISCHARGE LIMITATIONS AND OPERATING REQUIREMENTS

S2.A. Prohibitions and Discharge Limitations

1. The permittee must not discharge manure, litter, or process wastewater to surface water of the state except as allowed in S2.B and S2.C and provided these discharges to surface water do not exceed the following effluent limits.
 - (a) *E. coli* must not exceed zero organisms/100 mL or quantitation limit of 2 Colony Forming Units/100 mL or 0.0 most probable number/100 mL;
 - (b) Nitrate plus Nitrite Nitrogen (NO₃+NO₂) must not exceed zero mg/L or quantitation limit of 0.1 mg/L;
 - (c) Total Phosphorus (P) must not exceed zero mg/L or quantitation limit of 0.1 mg/L.
2. The permittee must not discharge manure, litter, or process wastewater to groundwater of the state except as allowed in S2.B and S2.C and provided these discharges to groundwater do not exceed the following effluent limits based on monitoring well data.
 - (a) *E. coli* must not exceed zero organisms/100 mL or quantitation limit of 2 Colony Forming Units/100 mL or 0.0 most probable number/100 mL;
 - (b) The Concentration Limits developed following the requirements listed in S5.C (pg. 17).

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

3. Compliance with the above limitations will generally be achieved by the absence of effluent. If releases do occur, the effluent limits above must be determined by laboratory test results of a representative grab sample of the discharge taken at the time of occurrence. If a grab sample is not taken, then the permit registrant is in violation of the effluent limits. Leaching from the land application area will be assessed for compliance as described in S4.A (pg 13), S5.B and S5.C (page 16 & 17).

S2.B. Production Area Limitations

1. The permittee must not discharge manure, litter, or process wastewater to surface water of the state from the production area, except when:
 - (a) Rainfall events cause an overflow of waste management and storage facilities designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater, including the runoff and direct precipitation, from a 25-year, 24-hour rainfall event; and
 - (b) The production area is operated in accordance with the applicable inspection, maintenance, recordkeeping, and reporting requirements of this permit.
2. The permittee must properly land apply manure, litter, and wastewater from the production area in a manner consistent with S2.C. All other authorized discharges from the production area listed in S2.C, must be managed to minimize impacts on surface water and groundwater of the state and meet the effluent limits in S2.A above.
3. The permittee must not exceed the seepage design rates approved by the agency for waste storage or animal confinement facilities in the production area and seepage to groundwater from these facilities must not violate state groundwater quality protection standards.

S2.C. Land Application Limitations

1. To prevent discharges to waters of the state, the permittee must apply manure, litter, or process wastewater to land application areas at agronomic rates in accordance with the permittee's ODA-approved AWMP. Land application areas include land under the control of the permittee, to which manure, litter, or process wastewater from the production area is or may be applied.
2. The permittee's discharges to groundwater due to seepage below the root zone of the crop or by other means must not violate state groundwater quality protection standards.
3. The permittee is allowed to apply manure, litter, or process wastewater to frozen soil provided:
 - (a) The AWMP addresses such applications [see S3.C.2(k), p. 12];
 - (b) The application does not result in a discharge to surface water or groundwater, except as allowed in S2.B and S2.C; and
 - (c) Land applications do not cause or contribute to a violation of state water quality standards.
4. The permittee must not apply manure, litter, or process wastewater to saturated soils immediately before or during rainfall events that are expected to result in surface runoff. If the permittee makes such an application because it is a desired alternative to allowing waste storage or treatment works to overflow (for example, land application to saturated soils to pond wastewater onsite provides for greater protection of surface water than a direct overflow of a waste storage tank to surface water), the application will be considered a violation of this permit.

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

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

S2.E. Waste Storage Facilities

1. The permittee must provide adequate storage capacity for solid and liquid wastes at all times so that land application occurs only during periods when soil and weather conditions allow for agronomic application and are in compliance with the Land Application Limitations in S2.C, p. 9 of this permit.
2. The permittee must site, design, construct, operate, and maintain all waste storage facilities to contain all manure, litter, process wastewater, and stormwater runoff and direct precipitation from a 25-year, 24-hour rainfall event for the storage period established in the ODA-approved AWMP. New and modified construction of waste facilities must be approved in advance and prior to construction by the agency in conformance with ORS 468B.055 and OARs 340-051 and 603-074.

3. The Permittee must also have depth markers in all surface liquid impoundments (for example, lagoons, ponds, tanks) designed to clearly indicate the:
 - (a) Maximum design volume,
 - (b) Minimum capacity necessary to contain the 25-year, 24-hour rainfall event, including additional freeboard requirements, and
 - (c) Depth of manure and process wastewater.

S2.F. Prevention of System Overloading

1. The permittee may not increase the number of animals over 10% or 25 animals, whichever is greater, of the maximum number assigned by the agency in the *Notice of Registration and Individual Permit Summary* until an updated plan is approved in writing by the agency (see S3.B AWMP Submittal, p. 11, and S3.D Requirements for AWMP Updates and Changes, p. 12).
2. The permittee must ensure that animal numbers do not exceed the capacity of the waste storage facilities described in the ODA-approved AWMP.

S2.G. Handling of Animal Mortalities

The permittee must not dispose of animal mortalities in liquid manure or treatment works. Animal mortality composting is allowed and must be described in the Animal Waste Management Plan. The permittee must handle animal mortalities in such a way as to prevent discharge of pollutants to waters of the state (surface water and groundwater).

S2.H. Proper Operation and Maintenance

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

S2.I. Maintaining Compliance if System Fails

The permittee must control all applications and discharges upon reduction, loss, or failure of the waste storage or utilization facilities until the facilities are restored or an alternative method of storage or utilization is provided. This requirement also applies when the primary source of power is reduced, lost, or fails.

S2.J. Setback Requirement

The permittee must develop and maintain setbacks or vegetated buffers when manure, litter, or process wastewater application occur adjacent to any surface water, open tile intake structures, sinkholes, well heads, or other conduits to surface water or groundwater. The permittee must also include descriptions of setbacks, vegetated buffers, and/or equivalent measures in its AWMP. Compliant setbacks, vegetated buffers, or equivalent measures include the following:

1. 100 ft. setbacks (non-vegetated, non-managed buffers).
2. 35 ft. vegetated, managed buffers.
3. If approved by the agency, variable-width, seasonal setbacks determined by the type of manure, litter or process wastewater and application method used.
4. If approved by the agency, a demonstration that a setback or vegetated buffer is not necessary or may be reduced in size because implementation of alternative conservation practices or field-specific conditions will provide equivalent or better environmental protection than [1., 2. and 3.] above.

S2.K. Manure, Litter, or Process Wastewater Transfers

1. The permittee retains responsibility of the manure, litter, or process wastewater until the transfer or export is completed with the required documentation.
2. The permittee must maintain manure, litter, or process wastewater transfer or export records as required by S4.C.2, p. 15.
3. Prior to transferring manure, litter, or process wastewater to other persons, the permittee must provide the recipient of manure, litter, or process wastewater with a manure nutrient analysis conducted within the previous 12 months.

S2.L. Proper Disposal of Other Wastes

The permittee must dispose of any chemicals or other wastes in accordance with applicable state regulation. The permittee must manage chemicals and wastes to prevent their disposal in any manure, litter, process wastewater, or stormwater storage or treatment system unless specifically designed to treat these wastes and the pollutants and treatment systems are identified in the AWMP. The permittee must not dispose of chemicals or other wastes to any system used for the control of uncontaminated stormwater.

S3. ANIMAL WASTE MANAGEMENT PLAN

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

1. Upon issuance of this permit, the permittee must implement its current ODA-approved AWMP developed for its CAFO.
2. The permittee's ODA-approved AWMP is incorporated into this permit by reference. The permittee must comply with all terms and conditions of its ODA-approved AWMP. Failure to comply with the ODA-approved AWMP constitutes a violation of the terms and conditions of this permit.

S3.B. AWMP Submittal and Public Notice

1. The applicant applying for permit coverage for the first time must submit its AWMP with the application to ODA for review and approval.
2. AWMPs are subject to public notice requirements detailed in S1.F, p. 7.

S3.C. AWMP Elements

1. The permittee must ensure that its AWMP is adequate for the proposed or existing population of animals, reflective of the proposed or existing facility operation, and prepared in accordance with the terms and conditions of this permit, OAR 340-051, and OAR 603-074.
2. The AWMP must to the extent applicable include the following:
 - (a) Procedures to ensure collection, handling, and storage of contaminated stormwater runoff from the production area, manure, litter, and process wastewater in compliance with the requirements of S2. Discharge Limitation and Operating Requirements. Calculations used to determine that storage capacity exists must be provided, including a demonstration that facilities are at least designed and constructed to contain all manure, litter, process wastewater, and stormwater runoff and direct precipitation from a 25-year, 24-hour rainfall event.
 - (b) Procedures to ensure proper operation and maintenance of the storage facilities.
 - (c) Procedures for proper management of animal mortalities. The procedures must ensure that animal mortalities are disposed of legally and are not disposed of in any storage or treatment system that is not specifically designed to treat animal mortalities.
 - (d) Procedures to ensure that clean water is diverted, as appropriate, from the production area.
 - (e) Procedures to prevent direct contact of confined animals with surface water.
 - (f) Identification of appropriate site-specific conservation practices to be implemented, including buffers, setback areas, or equivalent practices, to control runoff of pollutants to surface water and groundwater.
 - (g) Protocols to land apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure: 1) appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, and 2) application of nutrient at rates not to exceed the maximum agronomic application rate included in the ODA-approved AWMP. The protocols must include the following:
 - (i) The NRCS Phosphorous Index, USDA/NRCS Oregon Agronomy Technical Note #26, revised October 2008 or equivalent calculation must be completed for all fields or management units that receive manure, litter or process wastewater to determine if nitrogen or phosphorous is the most limiting nutrient. The maximum nutrient application rate must be calculated for the most limiting nutrient and must account for all other nitrogen and phosphorus sources.
 - (ii) Expected crop yields.
 - (iii) Calculations showing the total nitrogen and phosphorus to be applied annually to each field from manure, litter, process wastewater, and other sources.
 - (iv) Annual manure application rates and an explanation of the basis for determining these rates. For *large* CAFOs, these rates must be based on actual test data. For other operations, data or "book

values” from established reference sources (for example, Oregon Animal Waste Management program) may be used instead of actual testing.

- (v) Method(s) used to apply manure, litter, or process wastewater
- (vi) Timing of manure, litter, and process wastewater applications.
- (h) For all operations, protocols for soil testing. For *large* CAFOs, protocols for testing of manure, litter, and process wastewater. For other operations that are not required to test manure, litter, or process wastewater, test protocols are not required but the references that are used to characterize manure, litter, or process wastewater must be included.
- (i) If applicable, an Agricultural Compost Management Plan must be included as required by OAR 340-096 for composting activities.
- (j) If applicable, a Solid Waste Conversion Technology Plan must be included as required by OAR 340-096.
- (k) Frozen soil application procedures if applications of manure, litter, or process wastewater will be made to frozen soil. At a minimum, the following must be included:
 - (i) Description of the potential receiving field(s), estimates of waste amounts and types, and estimated timing of applications.
 - (ii) Aerial photo(s) identifying all areas and surface water bodies within 1,000 ft. of the boundaries of the receiving field(s).
 - (iii) Soil map(s) identifying soil types for receiving field(s).
 - (iv) Topographic map(s) for receiving field(s).
 - (v) Description of the structural practices in place to ensure that no discharges to surface water occur during application and after the soil thaws.
 - (vi) Description of the method used to determine when soil is frozen and management practices to be followed when planning an application and during and after an application to frozen soil.
 - (vii) Description of monitoring and reporting requirements to ensure that the permittee is in compliance with frozen soil application procedures.
- (l) Procedures for transfer or export of manure, litter, or process wastewater.
- (m) Identification of specific records that will be maintained to document the implementation and management of the minimum elements described above.

S3.D. Requirements for AWMP Updates and Changes

1. AWMP Changes

- (a) *Substantial changes.* The permittee must submit any proposal to make substantial changes to its AWMP to the agency for approval at least 60 days in advance of the proposed changes. The agency will provide public notice on the proposal as described in S1.F, p. 7. The agency will notify the permittee of its final decision concerning the proposed changes after the public notice period ends. The permittee must not implement a proposed change until the agency has approved it. The following types of changes to an AWMP are considered substantial and a major modification described in OAR 340-045-0055:
 - (i) Addition of new land application areas not previously included in the AWMP, unless the land application area is covered by an existing AWMP that has already been incorporated into an existing NPDES permit and the application of manure, litter, or process wastewater on the newly added land application area is in accordance with that existing NPDES permit.
 - (ii) Any changes to the field-specific maximum annual rates for land application.
 - (iii) Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop.
 - (iv) Addition of any crop or other uses not included in the AWMP and corresponding field-specific rates of application.
 - (v) A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP.
 - (vi) Any changes that are likely to increase the risk of pollutant transport to surface water or groundwater.

- (b) *Non-substantial changes.* The permittee must submit any proposal to make non-substantial changes to its AWMP to the agency for approval at least 60 days in advance of the proposed changes unless a different timeframe is allowed by the agency. A proposal for a non-substantial change is not subject to public notice. The agency will notify the permittee of its final decision concerning the proposed changes after reviewing the proposal. The permittee must not implement a proposed change until the agency has approved it. The following types of changes to an AWMP are considered non-substantial provided they do not result in a substantial modification listed in paragraph (a) above:
- (i) An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers.
 - (ii) When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process wastewater beyond the scope of the current AWMP.

S4. MONITORING, INSPECTION, RECORDKEEPING, AND REPORTING REQUIREMENTS

S4.A. Monitoring Requirements

1. Prohibited Discharges

If a discharge to surface water or groundwater that is prohibited by S2.B or S2.C, p. 9 occurs, the permittee must record the following information and notify the ODA within 24 hours (see S4.D, p. 19 for written reporting requirements):

- (a) A description and cause of the discharge;
- (b) The period of discharge including exact date(s), time(s), and duration of discharge;
- (c) An estimate of discharge volume;
- (d) Name or location of receiving water;
- (e) If a grab sample was taken of the discharge;
- (f) Corrective steps taken, if appropriate, to reduce, eliminate, or prevent reoccurrence of the discharge;
- (g) For any unauthorized discharge that may have come in contact with a drinking water intake, confirmation that Oregon Emergency Response System (OERS) was notified.

Item or Parameter	Minimum Frequency	Type of Sample
<i>E. coli</i> , Nitrate plus Nitrite Nitrogen (NO ₃ +NO ₂), Total Phosphorus (P)	Upon Occurrence see S2.A.2, p. 8	Grab sample of effluent discharge from production or land application area, analyzed using test methods in 40 CFR Part 136.

2. Animal Waste Holding Pond Monitoring

Item or Parameter	Minimum Frequency	Type of Sample
Wastewater and fresh water flow volumes into animal waste holding pond (AWHP)	Weekly	Estimate from depth records, Gauge readings
Solids volume removed from settling basins and pond	Each occurrence	Estimate

3. Crop System Monitoring

Item or Parameter	Minimum Frequency	Type of Sample
Flow volume	Each occurrence	Calculate or meter
Hydraulic loading (inches applied) from all wastewater and all irrigation applications	Monthly when irrigating, Field totals in Annual Report	Calculate or sensor
Wastewater: pH, total dissolved solids (TDS), total Kjeldahl nitrogen (TKN), nitrate + nitrite (NO ₃ + NO ₂), phosphorus (P), potassium (K), and salt	Weekly when applying wastewater	Grab
Manure solids: total N and P	Annually from each source, type	Grab
N and P content applied from any source	Each occurrence, Field totals in Annual Report	Record

Soil moisture	Weekly when irrigating	Record
Crops grown	By rotation or seasonal	Record List
Soil chemistry: NO ₃ , TKN, P, K, pH, OM, Ca, Mg, Total Bases	Post-harvest (results must be used in nutrient budget prior to spring planting)	0 - 12, 24 – 36, 48 - 60 inch depth.

4. Groundwater and Tile Drain Outfalls* Monitoring

Groundwater monitoring shall be in accordance with the agency-approved Groundwater Monitoring Plan (for plan requirement see S5.B). For each groundwater monitoring well and tile drain outfall*, the permittee must conduct monitoring as follows:

Item or Parameter	Minimum Frequency	Type of Sample
pH	Quarterly	Grab
Temperature	Quarterly	Grab
Electrical Conductivity	Quarterly	Grab
TDS	Quarterly	Grab
TKN	Quarterly	Grab
NO ₃ + NO ₂	Quarterly	Grab
Cl	Quarterly	Grab
COD	Quarterly	Grab
Fe and Na	Quarterly	Grab
Mg and K	Quarterly	Grab
Soluble Reactive Phosphorus	Quarterly	Grab

*Not required when there is no flow.

S4.B. Facility Inspection Requirements

- The permittee must monitor the operation and efficiency of all treatment, handling, and disposal facilities in accordance with its ODA-approved AWMP.
- The permittee must conduct the following inspections:

Area	Minimum Frequency	Type of Sample
Land application areas	Daily when operating	Visual inspection: record date and condition.
Production area, including: <ul style="list-style-type: none"> Storm water diversion devices Runoff diversion structures Manure and wastewater conveyances Waste storage structures Treatment systems 	Weekly	Visual inspection: record date and condition.
Water lines, including drinking water or cooling water lines	Daily	Visual inspection: record date and condition.
Equipment used for land application of manure, litter and/or wastewater	Daily, when equipment is in use	Visual inspection: record date and condition.
Liquid impoundments for manure and wastewater.	Weekly	Visual inspection: record date. Condition, and depth of wastewater according to depth marker.

- The permittee must correct any deficiencies found as a result of these inspections as soon as possible. The permittee must record any actions taken to correct these deficiencies and, if deficiencies are not corrected within 30 days, provide an explanation of the factors preventing immediate correction.

S4.C. Recordkeeping and Availability Requirements

1. The permittee must maintain all information required by this permit at the facility for at least five years and make this information available to the agency upon request.
2. The permittee must record the following information:
 - (a) Actual crop yields;
 - (b) Date, amount, and nutrient loading of manure, litter, or process wastewater applied to each field;
 - (c) Weather conditions at the time of application and 24 hours before and after application;
 - (d) Calculations showing the total nitrogen and phosphorus to be applied annually to each field, including sources other than manure, litter, or process wastewater;
 - (e) Total amount of nitrogen and phosphorus actually applied annually to each field, including documentation of calculations of the total amount applied;
 - (f) Method(s) used to apply the manure, litter, or process wastewater; and
 - (g) Total amount of manure or wastewater transferred or exported to other persons including the date and amount of each transfer or export, the name and address of each recipient, and copy of the manure nutrient analysis conducted provided to the recipient (see S2.K.3, p. 12).
 - (h) Animal mortalities management and practices used to meet the requirements of S2.G, p. 10
 - (i) Water level and water quality data in accordance with agency-approved Groundwater Monitoring Plan

S4.D. Reporting Requirements

1. Reporting to ODA and Oregon Emergency Response System (OERS)
 - (a) If a discharge to surface water or groundwater occurs that is not allowed by S2.B and S2.C, p. 9, the permittee must notify ODA within 24 hours of the discharge. The permittee must submit a written report within five (5) days to ODA. The information to be submitted is listed in the monitoring requirements (See S4.A, p. 13) of this permit.
 - (b) The permittee must notify ODA within 24 hours of becoming aware of any significant physical failure at any time of treatment works required under this permit.
 - (c) The permittee must notify ODA within 24 hours of any permit noncompliance that may endanger health or the environment as described in G13.6, p. 21.
 - (d) In addition to complying with [1.(c)] above, the permittee must notify Oregon Emergency Response System (OERS) of any unauthorized discharge that may come in contact with a surface water or groundwater drinking water system intake within 24 hours. Notification must be made by calling OERS at 1-800-452-0311.
2. Reporting of Monitoring Results of a Prohibited Effluent Discharge

The permittee must submit monitoring information for an effluent grab sample no later than one month from the date the sample was taken unless a different schedule is established by an administrative order as described in S4.E, P.20.
3. Annual Report
 - (a) The permittee must submit an annual report to ODA by March 15 of each year. The annual report must include the following for the previous calendar year:
 - (i) Maximum number and type of animals approved by the agency in the permittee's ODA-approved AWMP, whether in open confinement or housed under roof (for example, beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other).
 - (ii) Actual number of animals by type averaged over the year.
 - (iii) Amount of total manure, bedding, litter, process wastewater, and other material that comes in contact with manure generated.
 - (iv) Amount of total manure, bedding, litter, process wastewater, and other material that comes in contact with manure transferred to other persons by the permittee.
 - (v) Amount of manure, bedding, litter, process wastewater, and other material that comes in contact with manure applied to land by the permittee.
 - (vi) Total number of acres for land application covered by the AWMP developed in accordance with the terms of this permit.
 - (vii) Total number of acres under control of the permittee that were used for land application of

- manure, litter, and process wastewater in the previous 12 months.
- (viii) Summary of all manure, litter, and process wastewater discharges from the production area that have occurred, including date, time and approximate volume.
 - (ix) A statement indicating whether the AWMP was developed or approved by a certified waste management planner.
 - (x) Any Concentrated Animal Feeding Operation that discharges to surface waters must also report the following items (xi) through (xvi). (40 CFR 122.42(e)(4)(viii))
 - (xi) Actual crop(s) planted and actual yield(s) for each field.
 - (xii) Actual nitrogen and phosphorus content of the manure, litter, and process wastewater.
 - (xiii) Data used and results of calculations based on protocol in the ODA-approved AWMP.
 - (xiv) Amount of manure, litter, and process wastewater applied to each field during the previous 12 months.
 - (xv) Results of soil testing for nitrogen and phosphorus if testing was performed.
 - (xvi) Amount of any supplemental fertilizer applied.
 - (xvii) Water level and water quality data collected as part of the Groundwater Monitoring Plan
 - (xviii)
- (b) The annual report must be signed and certified by the permittee or permittee's authorized representative with the following statement: "I certify, under penalty of law, that this document and all attachments were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

S4.E. Additional Monitoring

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

S5. GROUNDWATER MONITORING

S5.A. Hydrogeologic Characterization Report

1. Not less than 90 days prior to placing the wastewater handling system into service, the permittee shall submit a Hydrogeologic Characterization Report of the Waste Management Area (the dairy facilities and wastewater land-application areas) to the agency for review and approval. The Hydrogeologic Characterization Report shall be prepared in conformance with the DEQ's guidance document titled "Oregon's Groundwater Quality Protection Rules – A Resource Manual." A work plan may be submitted for approval prior to developing the report.
2. The Hydrogeologic Characterization Report shall describe in detail the network of monitoring wells installed to characterize groundwater flow rate, flow direction, and seasonal variability in the Waste Management Area. Initial and available quarterly well water levels and water chemistry test results shall be included in the report. The report shall include recommendations for the selection of a compliance

wells located so as to detect adverse groundwater quality impacts. Well installation is often iterative because the wells themselves provide the information needed for optimal placement. The number of wells will depend on the size of the land application area and the hydrologic variability. This variability (e.g., seasonal changes in flow paths, preferential flows, plural source areas of varying nitrate concentration) should be captured by upgradient wells paired with directly down gradient wells.

S5.B. Groundwater Monitoring Plan

1. No later than 45 days following agency approval of the Hydrogeologic Characterization Report, the permittee shall submit a Groundwater Monitoring Plan for the Waste Management Area to the agency for review and approval. A Groundwater Monitoring Plan must be approved by the agency before the permittee places the facility into service. The Groundwater Monitoring Plan must be adequate to determine any adverse water quality impacts caused by the facility or land-application operation, and must include location and as-built construction information for the compliance point well(s).
2. In conjunction with submittal of the Groundwater Monitoring Plan, the permittee shall propose for agency approval, a submittal date for a Water Quality Analysis Report. The earliest potential date would be after completion of 9 quarters of groundwater monitoring, but could be later because the Water Quality Analysis Report must be based on an adequate understanding of site hydrogeology, including seasonal water level fluctuations, water quality fluctuations, and groundwater flow direction(s). The Water Quality Analysis Report must specify compliance wells and include concentration limits for each downgradient well.

S5.C. Groundwater Concentration Limits or Concentration Limit Variance

1. Prior to placing the facility into service or commencing land-application, and prior to the establishment of downgradient numeric limits, the compliance measure will be 'no increase in nitrate concentrations between each up and down gradient well pair.
2. The permittee shall submit to the agency for review and approval a Water Quality Analysis Report no later than the date approved by the agency under S5.B.2 for submittal of the report. The report shall include, but not be limited to, a determination of background groundwater quality, an analysis of existing water quality data and existing impacts, and an analysis of potential impacts from facility activities.
3. Concurrent with submittal of the Water Quality Analysis Report, the permittee shall:
 - (a) Propose site-specific concentration limits pursuant to OAR 340-040-0030(3) for the department's consideration; or
 - (b) Apply for a concentration limit variance pursuant to OAR 340-040-0030(4).

The permittee is required to meet the compliance dates that have been established in S5.A, B, and C. Prior to or no later than 14 days following any lapsed compliance date, the permittee shall submit to the department a report of noncompliance with the compliance dates in S5.A, B, and C. Any report of noncompliance shall include the cause of noncompliance.

S5.D. Monitoring Well Protection and Maintenance

1. The permittee must protect and maintain each groundwater-monitoring well so that samples can be collected that are representative of actual conditions.
2. If a monitoring well becomes damaged or inoperable, the permittee must notify ODA in writing within 14 days. The written report must describe what problem has occurred, the remedial measures that have been taken to correct the problem, and the measures taken to prevent its recurrence. The agency may require the replacement of inoperable monitoring wells.

S5.E. Monitoring Well Installation, Modification, Replacement, and Abandonment

For all monitoring well installations, modifications, replacements, and abandonments, the permittee must:

1. Comply with the Water Resources Department Rules (OAR Chapter 690, Division 240) and with the Department of Environmental Quality's guidelines for groundwater monitoring well-drilling, construction, and decommissioning.

2. At least 30 days prior to conducting the activity, submit a plan and, if applicable, well location and design, to ODA for approval.
3. Submit well reports prepared by an Oregon-licensed Monitoring Well or Water Supply Well Constructor or State of Oregon Registered Professional Geologist or Civil Engineer to ODA within 30 days of well installation. Reports must include:
 - (a) Start and completion date(s);
 - (b) Latitude and longitude of well location;
 - (c) Well depth; and
 - (d) Land survey drawings that depict location of well and land application areas.

GENERAL CONDITIONS

The general conditions in this schedule apply only to the extent they do not conflict with the requirements contained in special conditions S1 through S4S5. If the permit requirements in special conditions S1 through S5 conflict with these general conditions, the permit requirements in special conditions S1 through S5 will control.

G1. Compliance with other laws and statutes

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

G2. Duty to comply [40 CFR § 122.41(a)]

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

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

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

G3. Duty to reapply [40 CFR § 122.41(b)]

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.

G4. Need to halt or reduce activity not a defense [40 CFR § 122.41(c)]

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

G5. Duty to mitigate [40 CFR § 122.41(d)]

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

G6. Proper operation and maintenance [40 CFR § 122.41(e)]

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

G7. Permit actions

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

G8. Property rights [40 CFR § 122.41(g)]

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

G9. Duty to provide information [40 CFR § 122.41(h)]

The permittee shall furnish to the director, within a reasonable time, any information which the director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the director, upon request, copies of records required to be kept by this permit.

G10. Inspection and entry [40 CFR § 122.41(i)]

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

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

G11. Monitoring and records [40 CFR § 122.41(j)]

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

G12. Signatory requirement [40 CFR § 122.21(k)]

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

G13. Additional reporting requirements [40 CFR § 122.41(l)]

1. *Planned changes.* The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in § 122.29(b); or
 - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants, which are subject neither to effluent limitations in the permit, nor to notification requirements under § 122.42(a)(1).
 - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
2. *Anticipated noncompliance.* The permittee shall give advance notice to the director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.
3. *Transfers.* This permit is not transferable to any person except after notice to the director. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

4. *Monitoring reports.* Monitoring results must be reported at the intervals specified elsewhere in this permit.
 - (a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the director for reporting results of monitoring of sludge use or disposal practices.
 - (b) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the director.
 - (c) Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean unless otherwise specified by the director in the permit.
5. *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.
6. *Twenty-four hour reporting.*
 - (a) The permittee shall report any noncompliance that may endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - (b) The following must be included as information that must be reported within 24 hours under this paragraph.
 - (i) Any unanticipated bypass that exceeds any effluent limitation in the permit. (See § 122.41(g) or G14, p. 21.)
 - (ii) Any upset which exceeds any effluent limitation in the permit. (See § 122.41(n) or G15, p. 22.)
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the director in the permit to be reported within 24 hours. (See § 122.44(g).)
 - (c) The director may waive the written report on a case-by-case basis for reports under G13.6(b) of this section if the oral report has been received within 24 hours.
7. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under G13.4, 5, and 6 of this section, at the time monitoring reports are submitted. The reports must contain the information listed in G13.6 of this section.
8. *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

G14. Bypass [40 CFR § 122.41(m)]

1. *Definitions.*
 - (a) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
 - (b) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of G14.3 and 4 of this section.
3. *Notice*
 - (a) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
 - (b) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in G13.6 of this section (24-hour notice).
4. *Prohibition of bypass.*
 - (a) Bypass is prohibited, and the director may take enforcement action against a permittee for bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of

reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (iii) The permittee submitted notices as required under G14.3 of this section.
- (b) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed above in G14.4(a) of this section.

G15.Upset [40 CFR § 122.41(n)]

1. *Definition. Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of G15.3 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
3. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated; and
 - (c) The permittee submitted notice of the upset as required in G13.6(b)(ii) of this section (24 hour notice).
 - (d) The permittee complied with any remedial measures required under G5 of this section.
4. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.