

This Document Contains the Following Sections

1. **Letter** informing CAFO Operators of Issuance of this Permit Modification (Pages 2 to 3)
2. **General SPDES Permit - GP-99-01** (*Including the October 12, 2001 Permit Modification*)
for Concentrated Animal Feeding Operations (CAFOs) (Pages 4 to 15)
3. **Fact Sheet** for the Permit Modification (Pages 16 to 19)

New York State Department of Environmental Conservation

Division of Water

Bureau of Water Permits, 4th Floor

625 Broadway, Albany, New York 12233-3505

Phone: (518) 402-8111 • FAX: (518) 402-9029

Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

October 12, 2001

**Re: October 12, 2001 Permit Modification
General SPDES Permit GP-99-01 for
Concentrated Animal Feeding Operations
(CAFOs)**

Dear CAFO Owner/Operator,

On August 29, 2001, the New York State Department of Environmental Conservation (Department) proposed and made available for comment, a draft modification to General SPDES Permit GP-99-01 for Concentrated Animal Feeding Operations (CAFOs). The public comment period for the proposed modified permit closed on September 27, 2001.

Section 7 of the permit was modified to add provision **7. e. AWMP Time Extensions**, to allow “existing” and “expanded” permitted CAFOs to apply for an extension in the compliance deadline to certify completion of the AWMP.

As a CAFO owner or operator, you received a package which included the: public notice; permit fact sheet, and the proposed modification.

Since the Department received no substantive or significant comments during the notice period, we hereby issue the modified General Permit GP-99-01, effective October 12, 2001. This modified permit supercedes the permit which became effective on July 1, 1999.

The modified permit may allow extensions of up to six months for “large” CAFOs, which in no event may be later than January 1, 2002. Extensions of up to twelve months may be granted for “medium” CAFOs, which in no event may be later than January 1, 2003.

If you have already submitted the **Appendix B - AWMP Certification** to the Department, you are in compliance with Section 7 of the General Permit. If you will not meet your compliance deadline specified in your *NOI Acknowledgment Letter*, and you want to receive a time extension, you must submit a written request in accordance with Section 7.e.

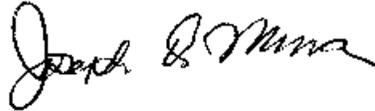
If you have already submitted a written request for a time extension, you should have received an interim response from the Department. If your written request *meets* the requirements by Section 7.e. of the modified permit, the new completion date has not yet occurred, and the new date is not later than January 1, 2002, you will receive a letter from the Department approving the extension.

If your written request *does not meet* the requirements by Section 7.e. of the modified permit, you will receive a letter from the Department noting the deficiencies of your request.

Since the enclosed modified permit supercedes General Permit GP-99-01 which became effective on July 1, 1999, we recommend that you discard old copies of the permit and make all future references to the enclosed version.

If you have any questions regarding the modified permit, or the new requirements for time extensions for completion of your AWMP, please call me at 518-402-8117.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph DiMura". The signature is written in a cursive style with a large initial "J" and "D".

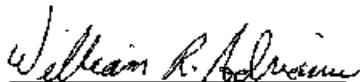
Joseph DiMura, P.E.
Division of Water

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
GENERAL PERMIT (GP-99-01)
State Pollutant Discharge Elimination System (SPDES) Permit
Concentrated Animal Feeding Operations (CAFOs)**

Effective Date: July 1, 1999

**Expiration Date: June 30, 2004
Modification Date: October 12, 2001**

**William R. Adriance
Chief Permit Administrator**


Authorized Signature

**Address:
Division of Environmental Permits
625 Broadway
Albany New York 12233-1750**

Date: 10/12/01

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
GENERAL PERMIT (GP-99-01)
State Pollutant Discharge Elimination System (SPDES) Permit
Concentrated Animal Feeding Operations (CAFOs)

TABLE OF CONTENTS:

1. <u>DEFINITIONS</u>	(PAGE 3)
2. <u>FACILITIES ELIGIBLE TO BE COVERED BY THIS PERMIT</u>	(PAGE 5)
3. <u>EXCLUSIONS FROM COVERAGE UNDER THIS PERMIT</u>	(PAGE 5)
4. <u>REQUIRING AN INDIVIDUAL SPDES PERMIT</u>	(PAGE 5)
5. <u>DUTY TO FILE A NOTICE OF INTENT/NOTICE OF TERMINATION</u>	(PAGE 6)
6. <u>EFFLUENT LIMITATIONS</u>	(PAGE 6)
7. <u>AGRICULTURAL WASTE MANAGEMENT PLANS</u>	(PAGE 6)
8. <u>GENERIC BEST MANAGEMENT PRACTICES</u>	(PAGE 8)
9. <u>MONITORING AND REPORTING</u>	(PAGE 9)
10. <u>GENERAL PROVISIONS</u>	(PAGE 10)

[APPENDICES: \(This link will take you to another document\)](#)

- < [APPENDIX A - *Notice Of Intent*](#)
- < [APPENDIX B - *Agricultural Waste Management Plan Certification*](#)
- < [APPENDIX C - *Agricultural Waste Management Plan Five Year Re-Certification*](#)
- < [APPENDIX D - *Notice Of Termination*](#)

GENERAL PERMIT (GP-99-01)
State Pollutant Discharge Elimination System (SPDES) Permit
Concentrated Animal Feeding Operations (CAFOs)

1. DEFINITIONS:

a. 25-Year 24-Hour Rainfall Event means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States", May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

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

c. Agronomic Rates means the land application of animal wastes at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth.

d. Agricultural Environmental Management (AEM) Planner means a planner deemed qualified by the Commissioner of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee, to develop and review Agricultural Waste Management Plans for Concentrated Animal Feeding Operations (CAFOs) in New York State.

e. Agricultural Waste Management Plan (AWMP) A plan, in accordance with "Natural Resources Conservation Service - Conservation Practice Standard - Waste Management System No. 312 - NY", to properly manage liquid and solid waste, including runoff from concentrated areas.

f. Animal Feeding Operation (AFO) means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they physically adjoin each other, or if they use a common area or system for the disposal of wastes.

g. Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle and dairy heifers multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. 1000 animal units (or greater) will refer to group I. in definition number *j*. 300 animal units (but less than 1000) will refer to group II. in definition number *j*.

h. Best Available Technology Economically Achievable ("BATEA") means the best available technology which is economically achievable established under 301(b) and 402 of the Act. The criteria and standards for imposing technology-based treatment requirements are listed in 40 CFR 125.3.

i. Best Management Practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. Best Management Practices also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

j. Concentrated Animal Feeding Operation (CAFO) means an "animal feeding operation" which meets the following criteria:

I. New and existing operations which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period more than the numbers of animals specified in any of the following categories:

1. 1,000 slaughter or feeder cattle;
2. 700 mature dairy cattle (whether milkers or dry cows);
3. 2,500 swine weighing over 55 pounds;
4. 500 horses;

5. 10,000 sheep or lambs;
6. 55,000 turkeys;
7. 100,000 laying hens or broilers when the facility has unlimited continuous flow watering systems;
8. 30,000 laying hens or broilers when facility has liquid manure handling system;
9. 5,000 ducks; or
10. 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds and sheep;

II. New and existing operations that discharge into navigable waters either through a man-made ditch, flushing system, or other similar man-made device, or directly into surface waters of the State, and which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period more than the numbers or types of animals in the following categories:

1. 300 slaughter or feeder cattle;
2. 200 mature dairy cattle (whether milkers or dry cows);
3. 750 swine weighing over 55 pounds;
4. 150 horses;
5. 3000 sheep or lambs;
6. 16,000 turkeys;
7. 30,000 laying hens or broilers when the facility has unlimited continuous flow watering systems;
8. 9000 laying hens or broilers when facility has liquid manure handling system;
9. 1,500 ducks; or
10. 300 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds and sheep.

k. Control Facility means any system used for the retention of wastes on the premises until their ultimate disposal. This includes the retention of manure, liquid waste, and runoff from the feedlot area.

l. Date of Coverage - means the permittee is covered under the terms of this permit fifteen (15) calendar days from the date of the NOI signature, unless otherwise notified by the Department.

m. Department means the New York State Department of Environmental Conservation.

n. Existing Facility means a CAFO constructed and operating prior to July 1, 1999.

o. Expanded Facility means an AFO with less than 300 animal units, that constructs and operates, after July 1, 1999, an expansion physically contiguous to the existing AFO that meets the definition of a CAFO specified in *Section 1.j.* of this permit.

p. Groundwaters means those waters in saturated zones.

q. Hydrologic Connection means the interflow and exchange between surface impoundments and surface water through an underground conduit or ground water. In the context of this permit, the reduction of hydrologic connection is to reduce the ground water flow contact which would result in the transfer of pollutant materials from Concentrated Animal Feeding Operation containment structures into surface waters.

r. Land Application means the removal of wastewater and waste solids from a control facility and distribution to, or incorporation into the soil mantle primarily for disposal purposes.

s. Liner means any barrier in the form of a layer, membrane or blanket, installed to prevent a significant hydrologic connection between liquids contained in retention structures and waters of the State.

t. New Facility means a CAFO which is constructed and operating after July 1, 1999.

u. NRCS - means the Natural Resources Conservation Service of the United States Department of Agriculture

v. Process Wastewater means any process generated wastewater in the operation of an Animal Feeding Operation including:

- < Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing of pens, barns, or manure pits.
- < Direct contact swimming, washing, or spray cooling of animals.
- < Leachate from silage and feed storage areas.
- < Wastewater generated in the production of intermediate or final products such as eggs and milk.
- < Precipitation which comes into contact with any area where organic materials are stored, fed or wasted such as silos, bunk silos, organic bedding storage, grain storage, commodity buildings, feed bunks, and manure or wastewater storage or treatment facilities.

Process generated waste water does not include precipitation that comes into contact with: pastures; cropfields; driveways; roof areas; or laneways where animals do not congregate; cropfields where manure is applied in accordance with “NRCS CPS No. 312- NY”, or vegetated filter areas that are designed and maintained in accordance with “NRCS CPS No. 312 - NY”.

w. Retention Facility or Retention Structures means all collection ditches, conduits and swales for the collection of runoff and wastewater, and all basins, ponds and lagoons used to store wastes, wastewaters and manures.

x. Saturated Zones - means any extensive portion of the earth’s crust that contains sufficient water to fill all interconnected voids or pore spaces.

y. 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.

z. Toxic Pollutants mean any pollutant listed as toxic under section 307(a)(1) of the Act.

2. FACILITIES ELIGIBLE TO BE COVERED BY THIS PERMIT:

Unless excluded from coverage in accordance with Section 3. of this permit, owners or operators of animal feeding operations that are defined in accordance with Section 1.j. of this permit as Concentrated Animal Feeding Operations are eligible to apply for coverage under this permit.

a. CAFOs - Existing Facilities or Expanded Facilities. Owners or operators of existing or expanded facilities are authorized under the terms and conditions of this permit fifteen (15) calendar days from the date of the Notice Of Intent (NOI) signature, unless otherwise notified by the Department. Permittees must retain on site a copy of : the permit; the NOI; and, the Agricultural Waste Management Plan (AWMP) required by Section 7. of this permit.

b. CAFOs - New Facilities. Owners or operators of new facilities are authorized under the terms and conditions of this permit fifteen (15) calendar days from the date of the NOI signature unless otherwise notified by the Department. The owner or operator of a new CAFO must submit a Notice of Intent **and the Agricultural Waste Management Plan Certification** at least 30 days prior to commencing operation of the CAFO. Permittees must retain on site a copy of: the permit; the NOI; and the AWMP required by Section 7. of this permit.

3. EXCLUSIONS FROM COVERAGE UNDER THIS PERMIT:

The following CAFOs are not covered by this permit:

- a.** CAFOs that the Department has determined, prior to the date of coverage, to be contributing to a violation of a water quality standard.
- b.** CAFOs which have been notified by the Department to file for an individual SPDES permit.
- c.** CAFOs that discharge all of their process wastewater to a publicly owned sanitary sewer system which discharges in accordance with an SPDES permit.

4. REQUIRING AN INDIVIDUAL SPDES PERMIT:

a. The Department may require any person authorized by this permit to apply for and obtain an individual SPDES permit as provided in 6NYCRR Part 750 et seq.. The Department will notify the owner or operator in writing that an application for an individual permit is required. If an owner or operator fails to submit an individual SPDES permit application as required by the Department, then coverage under this general permit is automatically terminated at the end of the day specified for submittal of the individual permit application.

b. When an individual SPDES permit is issued to an owner or operator otherwise subject to this permit, coverage under this general permit is automatically terminated on the effective date of the individual permit.

5. DUTY TO FILE A NOTICE OF INTENT/ NOTICE OF TERMINATION:

a. Existing, Expanded, or New Facilities

Owners or operators of facilities eligible to be covered by this permit shall submit a Notice of Intent to the Department in order to discharge into the surface waters of the state (address listed below). The **Notice of Intent Form** is specified in **Appendix A** of this permit. Notifications for an existing facility must be made January 1, 2000. Notifications for a new or expanded facility must be made at least 30 days prior to commencing operation of the new facility or the facility expansion, respectively. The **Notice of Intent Form** (or photocopy thereof) shall be signed by the owner, and a copy of the NOI and a copy of this permit shall be retained on site in accordance with Section 2. of this permit.

b. Notice of Termination

The permittee shall submit a Notice of Termination (NOT) within 90 days after the termination of operations. The **Notice of Termination Form** for this permit is specified in **Appendix D** of this Permit.

c. Transfer of Ownership

Coverage under this permit is not transferable to a new owner or operator. The permittee shall submit an NOT within 30 days prior to the transfer of ownership or operations. The permittee must notify the new owner or operator of the requirement to submit an NOI to obtain coverage under this permit. The new owner or operator of the facility is required to file an NOI within 30 days of the transfer of ownership or operations. When the ownership or operation is transferred, if the nature of the operation is changed, or the facility is expanded beyond the contingencies specified in the AWMP, the new permittee shall amend the AWMP in accordance with Section 7.c. of this permit.

The address for **Notice of Intent** or a **Notice of Termination** submission to NYSDEC is:

New York State Department of Environmental Conservation
Division of Water - Fourth Floor
625 Broadway
Albany, New York 12233 - 3505

6. EFFLUENT LIMITATIONS:

a. Effluent Limitations for CAFOs - The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a Concentrated Animal Feeding Operation in compliance with this permit, after application of the Best Available Technology Economically Achievable (BATEA) or New Source Performance Standards (NSPS): ***There shall be no discharge of process waste water pollutants to the surface waters of the State except in accordance with Section 6.c. of this permit.***

b. Effluent Limitations for Duck Farms - In accordance with 40 CFR Part 412.25, limitations established for concentrated duck feeding operations which began operations after the establishment of New Source Performance Standards in 1974 are subject to the new source performance standard: ***There shall be no discharge of process waste water pollutants to surface waters of the State except as specified in Section 6.c. of this permit.***

c. Releases in Excess of the 25 year, 24-hr Storm Event: Process waste water pollutants in the overflow may be discharged to surface waters of the State whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from retention structures constructed and

properly maintained to contain the 25 year, 24 hour storm event if the discharge is the result of a rainfall event which exceeds the design capacity. Retention structures shall contain all process waste waters plus run-off from the 25 year, 24 hour storm event.

7. AGRICULTURAL WASTE MANAGEMENT PLANS:

a. An Agricultural Waste Management Plan (AWMP) shall be developed for each CAFO facility covered by this permit. The AWMP shall be prepared in accordance with good engineering practices and should include measures necessary to prevent pollutants in runoff. The plan shall describe and ensure the implementation of practices which are to be used to assure compliance with the limitations and conditions of this permit. The permittee and the AWMP shall identify a specific individual(s) at the facility who is responsible for the implementation, maintenance, and revision of the AWMP. The activities and responsibilities of the AWMP personnel should address all aspects of the facility's AWMP. Facilities identified in the AWMP shall be designed, constructed and operated in accordance with the “**NRCS Conservation Practice Standard No. 312 -NY**” standards.

The AWMP shall include contingencies for possible expansion of the number of animal units or changes that would limit the permittee's ability to comply with the requirements of this permit.

- < **CAFOs - Large existing or expanded facilities** (those with 1000 animal units or more as defined in Section 1.j.I.) shall develop and retain on site an AWMP prepared by a qualified AEM planner within 18 months of the date of coverage under this permit. The AWMP shall be fully implemented within five years (60 months) of the date of coverage under this permit.
- < **CAFOs - Medium existing or expanded facilities** (those with less than 1000 animal units but with 300 or more as defined in Section 1.j. II.) shall develop and retain on site an AWMP prepared by a qualified AEM planner within 24 months of the date of coverage under this permit. The AWMP shall be fully implemented within five years (60 months) of the date of coverage under this permit.
- < **CAFOs - New facilities** shall retain on site and implement a certified AWMP upon the date of coverage under this permit.

b. Certification of the AWMP - The AWMP must be developed or reviewed by a qualified AEM Planner. The permittee and the qualified AEM Planner shall certify in accordance with the **Agricultural Waste Management Plan Certification (Appendix B)** that the AWMP has been prepared in accordance with “**NRCS Conservation Practice Standard No. 312 - NY**”.

c. Duty to Amend the Agricultural Waste Management Plan - The permittee shall amend the AWMP prior to any: change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the State; expanding operations beyond the contingencies specified in the AWMP; or, if the AWMP plan proves to be ineffective in achieving the general objectives of preventing pollutants in discharges from the CAFO.

The Department may provide written notice to the permittee that the plan does not meet one or more of the minimum requirements of the “**NRCS Conservation Practice Standard No. 312 - NY**”. After such notification, the permittee shall make changes to the plan within 90 days after such notification unless otherwise provided by the Department.

d. Five-Year Re-Certification of the AWMP - Five years after the date of the initial **AWMP Certification (Appendix B)**, the permittee and a qualified AEM Planner shall re-certify in accordance with the **Agricultural Waste Management Plan Five-Year Re-Certification (Appendix C)** that the AWMP has been prepared in accordance with “**NRCS Conservation Practice Standard No. 312 - NY**”.

e. AWMP Time Extensions - Existing or expanded facilities may request an extension of time to complete the development and certification of their AWMP, in accordance with the requirements contained in this section. The permittee must apply in writing as specified below to qualify for an extension.

- < Written Request - The permittee must provide a written request to the Department with the following information:
 - < Name of the individual and/or company working on the AWMP
 - < Reason(s) why the AWMP will not be completed on time
 - < A description of the level of completion of the AWMP, including sections completed and sections yet to be completed

- < The date when the AWMP will be completed and the **Appendix B - Agricultural Waste Management Plan Certification** certification submitted.

The written request must contain the signatures of both the permittee (or other authorized facility representative) and the Agricultural Environmental Management Planner developing the AWMP.

ii. Compliance Date Adjustment - The permittee will receive a written response from the Department. The response will specify the revised compliance date if the extension is granted. Any revised compliance date would only apply to the signature date of the AWMP time extension request for **Appendix B - Agricultural Waste Management Plan Certification**.

iii. Time Extension Periods - CAFO facilities may be granted an extension for submittal of **Appendix B - Agricultural Waste Management Plan Certification**, as follows:

- < **Existing or expanded large facilities** - Up to a maximum of six (6) months from the compliance date initially determined in accordance with this Section and in no event later than **January 1, 2002**.
- < **Existing or expanded medium facilities** - Up to a maximum of twelve (12) months from the compliance date initially determined in accordance with this Section and in no event later than **January 1, 2003**.

8. GENERIC BEST MANAGEMENT PRACTICES:

a. Prohibition on Unauthorized Substances. All discharges to retention facilities shall be composed entirely of wastewaters from the proper operation and maintenance of a CAFO and the precipitation run-off from the animal feeding operation areas. The disposal of any materials (other than discharges associated with proper operation and maintenance of a CAFO) into the retention facilities are prohibited by this permit. The retention and disposal of incidental food processing wastewater and of whey from cheese processing is authorized only if it is specified in the Agricultural Waste Management Plan.

b. Proper Operation and Maintenance Requirements. The facilities covered by this permit are required to document the attainment of the effluent limitations required in Section 6. and all applicable Generic Best Management Practices (BMPs) used to comply with the effluent limitations in this permit. Such documentation shall be included in the Agricultural Waste Management Plan (AWMP) required by Section 7. of this permit.

c. Generic Best Management Practices. The following Generic Best Management Practices (BMPs) shall be utilized by all CAFO owners/operators: (*Note that facility-specific BMPs may also be specified in the AWMP.*)

- i. Control facilities must be designed, constructed, and operated to contain all process generated wastewaters and the contaminated runoff from a 25-year, 24-hour rainfall event for the location of the animal feeding operation. Calculations may also include allowances for surface retention, infiltration, and other site specific factors. Waste control facilities must be constructed, maintained and managed so as to retain all contaminated rainfall runoff from open lots and associated areas, process generated wastewater, and all other wastes which will enter or be stored in the retention structure(s).
- ii. Facilities shall not expand operations, either in size or numbers of animals, prior to amending or enlarging the waste handling procedures and structures to accommodate any additional wastes that will be generated by the expanded operations, unless the existing facilities have been designed to accommodate such expansion.
- iii. Open lots and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures designed to carry peak flows expected at times when the 25 year, 24-hr. rainfall event occurs.
- iv. New facilities shall not be built in a surface water of the State, including wetlands.
- v. Animals confined in the animal feeding operation must be prevented from coming in contact with the surface waters of the State.
- vi. New and expanded wastewater retention facilities may not be located in the 100-year flood plain unless the facility is protected from inundation and damage that may occur during that flood event.

- vii. There shall be no water quality impairment to public or neighboring private drinking water wells due to waste handling at the permitted facility. Wastewater retention facilities, holding pens or waste/wastewater disposal sites shall not be located closer to public or private water wells than the distances specified by State regulations or health codes or State issued permits.
- viii. Solids, sludges, manure, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent pollutants from being discharged to waters of the State.
- ix. The operator shall prevent the discharge of pesticide contaminated waters into waters of the State. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent pollutants from entering the waters of the State.
- x. Dead animals shall be properly disposed of within three (3) days unless otherwise provided for by the Department. Animals shall be disposed of in a manner to prevent contamination of waters of the State or creation of a public health hazard.
- xi. Collection, storage, and disposal of liquid and solid waste should be managed in accordance with NRCS standards.
- xii. Appropriate measures necessary to prevent spills and to clean up spills of any toxic pollutant shall be taken. Where potential spills can occur, materials handling procedures and storage shall be specified. Applicable regulations and procedures for cleaning up spills shall be identified and the necessary equipment to implement a clean up shall be available to personnel.

9. MONITORING AND REPORTING

a. Discharge Notification.

Anticipated noncompliance. - The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

TwentyFour Hour Reporting. - If, for any reason, there is a discharge of pollutants to surface waters of the State, the permittee shall notify the Department Regional Office orally within 24 hours from the time that the permittee becomes aware of the discharge. A written noncompliance report shall be provided within 5 days of the discharge.

The permittee shall document the following information in the noncompliance report and in the AWMP:

- i. A description and cause of the discharge, including a description of the flow path to the receiving water body. Also, an estimation of the flow and volume discharged.
- ii. The period of discharge, including exact dates and times, and, if not corrected the anticipated time the discharge is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the discharge.
- iii. If caused by a precipitation event(s), information from the onsite rain gauge concerning the size of the precipitation event.
- iv. The Department may waive the requirement for a written report on a case-by-case basis *if* the oral report has been received within 24 hours.
- v. Reports required by this section shall be filed with the Department's regional office having jurisdiction over the permitted facility. During weekends, oral noncompliance reports, required by this paragraph, may be made to the Department Spill Hotline at 800-457-7362.

b. Written Notification.

All discharge information and data will be made available to the Department upon request. Signed copies of monitoring reports shall be submitted to the Department if requested at the address specified in the request.

c. Penalties for Falsification of Reports or Monitoring Systems.

State Law 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 up to \$50,000 per day or by imprisonment for not more than 4 years per violation or by both.

d. Retention of Records.

The permittee shall retain copies of all records required by this permit for a period of at least three years from the date reported. This period may be extended by request of the Department at any time.

e. Availability of Reports.

In addition to data determined to be confidential under the Freedom of Information Law, information submitted to the Department may be claimed as confidential by the submitter. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. As required by the State Law, however, Notices of Intent, permits, and effluent data shall not be considered confidential and any claims of confidentiality for this information will be denied.

f. Planned Changes.

The permittee shall document in the AWMP as soon as possible, any planned physical alterations or additions to the permitted facility. The permittee must insure that any change or facility expansion will not result in a discharge in violation of this permit.

g. Duty to Provide Information.

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

h. Other Information.

When the permittee becomes aware of a failure to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, the permittee shall promptly submit such facts or information.

i. Signatories and Certification

All reports or information submitted to the Department shall be signed and certified. In addition, all reports or information shall be signed by the facility owner or operator where the authority to sign documents has been assigned or delegated to the operator.

1. For facilities owned by a corporation: by a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means (I) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation.
2. For a facilities owned by a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
3. For facilities owned by a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
4. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is duly authorized representative only if the authorization is made in writing by a person described above, and the authorization specifies either an individual or a position having responsibility for the overall operation.
5. Any person signing a document under this section shall make the following certification:

" I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

j. On-site Rain Gauge - The permittee shall install and maintain a standard rain gauge in the proximity of the confinement area. All precipitation events in excess of 0.1 inch shall be measured and recorded in the AMWP.

10. GENERAL PROVISIONS

a Duty to Comply.

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and the Clean Water Act and is grounds for enforcement action; for loss of authorization to discharge under this general permit; or for denial of a permit renewal application.

b. Inspection and Entry.

The permittee shall allow the Commissioner of the Department, the EPA Regional Administrator, or any duly authorized agent thereof, upon the presentation of credentials and other documents as may be required by law, to:

i. 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:

ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

iii. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and

iv. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Environmental Conservation Law or Clean Water Act, any substances or parameters at any location.

c. Penalties for Violations of Permit Conditions.

State Law provides that any person who violates a permit condition implementing ECL Article 17, Title 8, is subject to a civil penalty not to exceed \$25,000 per day for each violation.

d. Continuation of the Expired General Permit.

This general permit continues in force and effect until a new general permit is issued.

e. Need to Halt or Reduce Activity not a Defense.

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

f. Duty to Mitigate.

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

g. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

h. Property Rights.

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining the assent of any other jurisdiction as required by law for the discharge authorized.

I. Severability.

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

j. Consent Orders

The issuance of this permit by the Department and the receipt thereof by the Applicant does not supersede, revoke or rescind an order or modification thereof on consent or determination by the Commissioner issued heretofore by the Department or any of the terms, conditions or requirements contained in such order or modification thereof unless specifically intended by said order.

k. Permit Actions.

If the permittee fails or refuses to comply with any requirement in this permit, such noncompliance shall constitute a violation of the permit for which the Commissioner may modify, suspend, or revoke the permit after notice and opportunity for hearing and take direct enforcement action pursuant to law. When, at any time during or prior to a period for compliance, the permittee announces or otherwise lets it be known, or the Commissioner on reasonable cause determines, that the permittee will not make the requisite efforts to achieve compliance with an interim or final requirement, the Commissioner may modify, suspend or revoke the permit and take direct enforcement action pursuant to law, without waiting for expiration of the period for compliance with such requirements.

l. Department Request for Information.

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

m. Requirements for Other Permits.

This permit contains the legal requirements for compliance with the Act and Article 17 of the Environmental Conservation Law. Nothing in this permit relieves the permittee from a requirement to obtain other permits required by state, local, or federal laws provided that these permits are at least as stringent as this general permit.

n. Compliance With Water Quality Standards

A determination has been made on the basis of a submitted Notice of Intent that compliance with the specified permit provisions will reasonably protect classified water use and assure compliance with applicable water quality standards. Satisfaction of permit provisions notwithstanding, if operation pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, or if the Department determines, on the basis of notice provided by the permittee and any related investigation, inspection or sampling, that a modification of the Agricultural Waste Management Plan (AWMP) is necessary to prevent impairment of the best use of the waters or to assure maintenance of water quality standards or compliance with other provisions of ECL Article 17, or the Act, the Department may require the modification of the AWMP in accordance with Section 7 of this permit. The Department may also require an individual SPDES permit in accordance with Section 4 of this permit and may require abatement action to be taken by the permittee and may also prohibit the noticed act until the individual SPDES permit has been issued.

o. Existing Permits

Unless otherwise notified by the Department, coverage under this permit does not suspend, revoke, or modify the provisions of any other permit issued by the Department.

Fact Sheet - Permit Modification

(for state-wide listing in Environmental Notice Bulletin)

General SPDES Permit GP-99-01 for Concentrated Animal Feeding Operations (CAFOs)

Background - Requirement for an AWMP and Certification Submittal:

In accordance with General SPDES Permit GP-99-01, Section 7, all CAFOs are required to develop an Agricultural Waste Management Plan (AWMP) in accordance with Natural Resources Conservation Service (NRCS) Conservation Practice Standard (CPS) 312-NY. The plan must be completed within 18 months after the *Date of Coverage* for “large” CAFOs, and within 24 months after the *Date of Coverage* for “medium” CAFOs. The permittee must demonstrate compliance with this requirement by submitting a completed **Appendix B - Agricultural Waste Management Plan Certification**. Appendix B must be signed by the CAFO operator {generally the owner and person who signed the Notice of Intent(NOI)} and the certified planner who prepared the plan.

Certification of Planners:

In 1998, parallel to the development of the CAFO permit, the New York State Department of Agriculture and Markets (NYSDAM), under the auspice of the Agricultural Environmental Management (AEM) Committee, formed a subcommittee referred to as the *AEM Certification Committee*. This committee was charged with the development of a program to qualify and certify both private and public sector planners and to provide professional services in the agricultural-environmental field. This was intended to assist in the implementation of the AEM voluntary program and for the anticipated CAFO permit program. Prior to the issuance of the CAFO permit in 1999, there was no program that trained and certified planners to deliver all of the disciplines necessary to develop a “Waste Management System” in accordance with NRCS (CPS) 312-NY which is required for all AWMPs.

The *AEM Certification Committee* requires a rigorous system to ensure that planners receiving certification have education, experience, training and demonstrated proficiency. To become “qualified”, the planners need to complete a five-module home study and test, be certified as a Certified Crop Advisor by the American Society of Agronomy, and attend a five day training course. After becoming qualified, the planner then needs to demonstrate proficiency by having the initial three Comprehensive Nutrient Management Plans (CNMPs) reviewed by AEM committee review teams comprised of NRCS, Cornell Cooperative Extension (CCE) and Soil & Water Conservation Districts (SWCDs). (*The term Comprehensive Nutrient Management Plan is equivalent to the Agricultural Waste Management Plan.*)

Progress in Planner Certification:

The initial group of AEM planners was conditionally certified in the spring of 1999 and the General Permit was issued on July 1, 1999. These planners were only “conditionally certified because they had completed the required training, but had not yet had their first three plans approved by NYSDAM. The initial group of conditionally certified planners was then substantially reduced when a major agricultural supplier decided to withdraw participation in CNMP plan development for business reasons.

In the year 2000, the number of conditionally certified planners increased significantly through additional training for both the private and public sectors. There was a modest increase in the number of planners as a result of the 2001 training. In addition to the comprehensive training, the AEM Certification Committee developed tools such as a model CNMP, review checklists and an internet “listserve site” for planners to exchange information.

Simultaneous to providing training, the AEM certification review teams started to slowly receive draft CNMPs for review. The development of the CNMP which meets the NRCS standard has proven to be a lengthy and complex task. Especially difficult is collection of data from multiple sources (e.g. soil erosion data from NRCS, concentrated sources design from SWCDs) in addition to incorporating information provided by the CAFO owner.

In order to evaluate workload and the rate of participation among CAFOs and public and private sector planners, the NYSDAM conducted a survey with the County SWCDs in early 2001. The survey contained information on the participation rate of CAFOs, along with the current status of planners in the certification process. The survey indicates that a high percentage of CAFOs are working with planners to fulfill their AWMP completion and certification requirements.

Compliance with AWMP Certification:

Department data indicates that 137 out of 150 large CAFOs were supposed to have submitted the AWMP certification by August 15, 2001. The Department has received the completed Appendix B Certification from 44 CAFOs (32%), extension requests from 48 CAFOs (36%), and 45 CAFOs (32%) had not yet responded.

As of August 15, 2001 virtually all permitted CAFOs requesting an extension have indicated participation with a planner. In most cases, the extension request indicates substantial progress towards completing the AWMP, supported with specific information on the status of plan completion. In some cases, the plan is complete and is under review by the AEM Certification Committee as one of the three initial plans for the planner as part of the certification process. The majority of the letters request a specific date for the extension.

Several factors have contributed to the current delay in meeting the CAFO permit

deadlines for certification of the AWMPs:

- The process of becoming a certified planner is new and rigorous
- In order to meet all of the requirements of NRCS CPS 312-NY, the plan requires extensive information from several sources and is very comprehensive and complex.
- The AEM Certification Committee review teams have a significant workload associated with reviewing the initial three CNMPs for each planner
- Prior to issuance of General Permit GP -99-01, the CAFO Work Group estimated that perhaps 500 CAFOs would seek coverage in the first five years of the General Permit. There are currently over 625 CAFOs permitted.

Based on the extensive factual information collected in evaluating the AWMP submittal dates, the Department has determined that the existing deadlines cannot be met for about 68% of the large CAFOs. The Department has also determined that significant progress is being made in both the development of the plans and the certification of planners. Further, based on the extension requests the Department has received, the additional time requests range from one to five months, with the average being about two months.

Permit Modification:

In consultation with NYSDAM and the AEM Certification Committee, the Department has determined that an extension for current deadlines for completion of the AWMPs is both appropriate and necessary.

Therefore, the Department is proposing a modification to the permit to allow existing and expanded permitted CAFOs to apply for an extension in the compliance deadline to certify completion of the AWMP. *Section 7.e. - AWMP Time Extensions* is being added to allow the permittee to apply for an extension of time to complete the development and the certification of the AWMP.

Extensions of up to six months *may* be granted for large CAFOs which in no event may be later than January 1, 2002. Extensions of up to twelve months *may* be granted for medium CAFOs which in no event may be later than January 1, 2003. All extension requests must be submitted in writing to the Department and must include the supporting information specified in the modified permit. Otherwise the CAFO must comply with the existing deadline. All extension requests will be evaluated on a case-by-case basis.

The permittee must apply for the time extension to be eligible. This extension applies to the submittal of the *Appendix B - Agricultural Waste Management Plan Certification* only.

Compliance and Enforcement:

The Department believes that the majority of permitted CAFOs will comply with the extended deadlines. Response to non-compliance with the *extended deadlines* will be handled in accordance with Department guidance on compliance assurance. Response to non-compliance with the *extended deadlines* will in most cases involve a penalty and a “short form” administrative consent order requiring completion and certification of the AWMP.