



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CONSERVATION AND RESTORATION

**APPROVAL FOR COVERAGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NPDES PERMIT FOR CAFO OPERATIONS
NPDES PERMIT NO: PA0259900**

In compliance with the provisions of the Pennsylvania Clean Streams Law, 35 P.S. Section 691.1 *et seq.*, and the federal Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act")

**Bryan Byers
(Bryan Byers Farm)
81 Four Pines Road
Quarryville, PA 17566-9799**

(hereinafter "permittee") is hereby authorized to operate a **130.19 AEU Poultry (Ducks)** Concentrated Animal Feeding Operation (CAFO) located in **East Drumore Township, Lancaster** County in Watershed **7-K**, in accordance with all limitations, monitoring, reporting, record-keeping requirements, and other special conditions set forth in Parts A, B, and C of the permit.

THIS PERMIT SHALL BECOME EFFECTIVE ON JUNE 1, 2013

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON MAY 31, 2018

The authority granted by this permit is based, in part, on information provided by the permittee on the application for an NPDES CAFO permit and is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms, conditions, or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
3. A complete application for renewal of this permit, or notification of intent to cease operation as a CAFO by the expiration date, must be submitted to the Department on or before **November 30, 2017** (unless permission has been granted by the Department for submission at a later date), using the appropriate NPDES permit application form.

In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit will be automatically continued and this permit will remain fully effective and enforceable pending the grant or denial of the pending application for permit renewal as long as the permittee is and remains in compliance with the terms and conditions of this permit.

4. This NPDES permit does not constitute the required separate Department authorization (Water Quality Management Permit) to construct and operate or make modifications to CAFO facilities.

DATE PERMIT ISSUED: May 24, 2013

ISSUED BY: /s/ _____

Maria Bebenek, P.E.

**TITLE: Program Manager
Clean Water Program**

DATE PERMIT AMENDMENT ISSUED: _____

PART A

I. EFFLUENT LIMITATIONS, MONITORING AND RECORD KEEPING REQUIREMENTS

A. Definitions

25-year, 24-hour Storm – 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," and subsequent replacements, or equivalent regional or state rainfall probability information developed there from.

100-year, 24-hour Storm – The maximum 24-hour precipitation event with a probable recurrence interval of once in 100 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," and subsequent replacements, or equivalent regional or state rainfall probability information developed there from.

Agricultural Process Wastewater – Wastewater from agricultural operations including from spillage or overflow from livestock or poultry watering systems; washing, cleaning or flushing pens, milk houses, barns, manure pits; direct contact swimming, washing or spray cooling of livestock or poultry; egg washing; or dust control. Agricultural process waste water also includes any water which comes in contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Animal Equivalent Unit (AEU) – One thousand pounds live weight of live stock or poultry animals, regardless of the actual number of individual animals comprising the unit.

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

Concentrated Animal Operations (CAOs) – An agricultural operation that meets the criteria established by the State Conservation Commission in regulations under the authority of 3 Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in Chapter 83, Subchapter D.

Concentrated Animal Feeding Operations (CAFOs) – A CAO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR 122.23.

Erosion and Sediment Control Plan – A plan for agricultural plowing and tilling activities that meets the requirements of 25 Pa. Code Chapter 102.4(a). A Soil Conservation Plan may be used to meet the requirements of Chapter 102.4(a).

Freeboard – The vertical distance between the level of manure in a manure storage facility and the maximum waste elevation that can be maintained without an overflow.

Manure Storage Facility – A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal, or other fabricated tanks and under-building structures, as well as earthen and synthetically-lined manure storage ponds, or other manure storage facilities as defined in 25 Pa. Code § 83.201.

Nutrient Management Plan – A written site-specific plan that incorporates management practices to manage the use of plant nutrients for crop production and water quality protection in accordance with the Nutrient Management Act (3 P.S. §§ 1701-1719).

Nutrient Management Specialist – A person satisfying the requirements of the Department of Agriculture's Nutrient Management Certification Program in 7 Pa. Code § 130b.1- 130b.51.

PART A

Production Area – That part of an operation 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, exercise lots, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included are egg washing or processing facilities and areas used in the storage, handling, treatment, or disposal of mortalities.

Winter - for the purposes of this permit, winter is defined as December 15 through February 28; or anytime the ground is frozen at least four (4) inches; or anytime that the ground is snow covered.

B. Effluent Limitations

The requirements under this section constitute narrative effluent limits to protect water quality.

1. For manure storage on CAFOs operating under this permit, the manure storage facility must be designed, constructed, operated and maintained to collect all manure, litter, and agricultural process wastewater from the production area unless other facilities have been designed and constructed to handle non-manure contaminated agricultural process wastewater. Also for manure storage on CAFOs operating under this permit, the storage capacity must be adequate to ensure that the permittee does not exceed application rates established in his approved NMP under Chapter 83, Subchapter D.
2. The permittee shall comply with the relevant provisions of 25 Pa. Code § 91.36; 25 Pa. Code 92a; and 25 Pa. Code Chapter 83, Subchapter D including:
 - a. Liquid or semisolid manure storage facility must be designed, constructed, operated and maintained to ensure that the facility is structurally sound, water tight, and located and sized properly to prevent pollution of surface water and groundwater for any storm up to and including the design rainfall event. Any liquid or semisolid manure storage facility must be fitted with a depth marker. For operations that came into existence after April 13, 2003, and that include swine, poultry, or veal calves, the design rainfall event is the 100 year, 24 hour storm. For all other operations, the design rainfall event is the 25-year, 24-hour storm.
 - b. For land application areas on CAFOs operating under this permit, the permittee shall implement his approved NMP under Chapter 83, Subchapter D (relating to nutrient management), according to Part C of this Permit. In addition, the permittee shall implement manure application setbacks of at least 100 feet, or vegetated buffers at least 35 feet in width, from surface waters, open tile line intakes structures, sinkholes, agricultural well heads, or other conduits to surface water and include a provision that manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water during the appropriate design storm event. Implementation of the NMP shall include all BMPs identified in the plan, both for land application and for manure, litter, and agricultural process wastewater handling and storage.
3. The permittee shall comply with the requirements enumerated in 25 Pa. Code § 92a.29(e) of the regulations.
4. The permittee shall ensure that activities associated with the CAFO operation do not cause or contribute to pollution of surface waters. In response to its own finding of water quality problems or based upon documented evidence, the Department may, upon written notice, require the permittee to develop and implement additional BMPs or use other control measures to promptly abate the pollution problem and to ensure that the water quality of the receiving water is maintained and protected.

PART A**C. Self-Monitoring, Reporting, and Record Keeping**

1. Self-inspections – The permittee shall conduct routine self-inspections.
 - a. Daily inspections – Inspection of the drinking water or cooling water lines shall be conducted and documented each day. The permittee shall create and maintain a daily log of inspections of water lines that documents any leaks and the corrective actions taken by the permittee. Records of daily inspections shall be maintained on site in accordance with Part A.1.C.11 of this permit.
 - b. Weekly inspections – Inspection of the production area shall be conducted and documented at least once every week, and after measurable wet weather events.
 - c. Weekly inspections - Inspection of the production area shall, at a minimum, include: evaluation of the adequacy, stability, and operation of the manure storage facilities and any devices channeling contaminated stormwater to the manure storage facility; assessment of storm water diversion devices and runoff diversion structures; and determination of the storage level in the manure storage facility. In addition, the inspections must include examination of subsurface drainage and/or leak detection systems for the presence of manure and to assurance that these systems are functioning properly.
 - d. Weekly inspections - The weekly self-inspection results shall be recorded on the Department's "*Concentrated Animal Feeding Operation Quarterly Self-Inspection Report Form*". The report shall document the results of these inspections and identify any problems or shortcomings and the steps to be taken to correct them. Upon reviewing the reports, the Department may conduct its own follow-up compliance inspections to assure the adequacy of facilities and implemented BMPs and other control measures to protect water quality.
 - e. Weekly inspections - Copies of the reports from weekly self-inspections must be kept on file at the operation for five (5) years and be made available to the Department for review upon request. The permittee must also file a copy of weekly self-inspection reports with the Department within 15 days after the close of each calendar quarter. Reports must be received by the Department on April 15, July 15, October 15, and January 15 for the 1st, 2nd, 3rd, and 4th quarters, respectively.
 - f. Periodic inspections – During the weeks that manure, litter, or process wastewater is land applied under the NMP, the CAFO must inspect land application equipment for leaks, and document the results of these inspections and actions taken to abate the leakage. Records of periodic inspections shall be maintained on site in accordance with Part A.1.C.11 of this permit.
 - g. Any CAFO that land applies manure shall document the weather conditions on the day before, the day of, and the day after land application of manure, litter, or process wastewater. Records of weather conditions shall be maintained on site in accordance with Part A.1.C.11 of this permit.
 - h. The permittee shall maintain records of mortality management and practices used by the CAFO to meet the requirements of Part C.I.D., Animal Mortality, and the permittee's approved NMP. Records of mortality management shall be maintained on site in accordance with Part A.1.C.11 of this permit.
 - i. Records required to be maintained in Part A.1.C.1(a), 1(f), 1(g), and 1(h) may be maintained on forms provided by the Department or on other comparable forms.
2. Representative Sampling – If there is a discharge of pollutants into surface waters, potential conduits to surface waters or groundwater, the permittee shall, after taking necessary measures to halt the discharge, estimate the volume (gallons) of the discharge and shall collect at least one grab sample for analysis of Total Nitrogen, Total Phosphorus, Ammonia-Nitrogen, pH, BOD₅, and Fecal Coliform bacteria. The results shall be submitted to the Department as an attachment to a Non-Compliance Discharge Report, as discussed in paragraph 9 below.

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3. Recording of Results – When any measurement or sample is taken, the permittee shall record the following information:
 - a. The exact place, date, and time of sampling or measurements.
 - b. The person(s) who performed the sampling or measurements.
 - c. The date(s) the analysis was performed.
 - d. The person(s) who performed the analysis.
 - e. The analytical techniques or methods used.
 - f. The results of such analysis.
4. Test Procedures – When samples of manure or other discharges are collected, the permittee shall use the analytical test procedures contained in 40 CFR Part 136, or alternate test procedures approved pursuant to that part or approved in writing by the Department.
5. Anticipated Non-Compliance – The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements with a report on steps taken or to be taken to eliminate or minimize the impacts on water quality.
6. Non-Compliance Reporting - The permittee shall record and report to the appropriate Department Regional Office any manure storage facility issues identified in the Self Inspection Report attached to this permit, and any non-compliance with the terms and conditions of this permit that may endanger public health or safety or the environment or any wet weather event that caused any discharge or overflows. This information shall be provided as soon as possible, but not later than 24 hours after the time the permittee becomes aware of the incident causing or threatening pollution. A completed Non-Compliance Discharge Report shall be submitted to the Department within 5 days of becoming aware of the incident. Where necessary, the Non-Compliance Discharge Report shall be supplemented with a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; if not already corrected, the anticipated time the noncompliance is expected to continue; discharge sampling results; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. If reasonably possible, the above shall also include permittee notification of known downstream users of incidents causing or threatening pollution pursuant to 25 Pa. Code Chapter 91.33.
7. Annual Report – An annual report shall contain all information required by 40 CFR Section 122.42(e)(4), and be submitted to the Department by February 15th of each year for the manure application period starting January 1st through December 31st of each year. The submitted report shall include all information identified on the “Annual Report Form” attached to this permit and shall contain the following items, at a minimum:
 - a. The number and type of animals, whether in open confinement or housed under roof;
 - b. The estimated amount of total manure, litter and process wastewater generated by the CAFO during the year (tons/gallons);
 - c. The estimated amount of total manure, litter and agricultural process wastewater transferred to other person by the CAFO during the year (tons/gallons);
 - d. Total number of acres for land application covered by the CAFO's NMP;
 - e. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater during the year;

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- f. Summary of all manure, litter and process wastewater discharges from the production area that have occurred during the year, including date, time, and approximate volume; and
 - g. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner; and
 - h. The actual crop(s) planted (from January 1st through December 31st) and associated "actual yield(s)" for each field and the actual nitrogen and phosphorus content of the manure, litter, and process wastewater applied to each field during the year.
8. Other Reporting - All approvals of new or revised NMPs or E&S (Soil Conservation) Plans shall be submitted to the Department within 30 days of approval, along with a copy of the new or amended plan.
 9. Other Non-Compliance - The permittee shall record and maintain reports of all instances of other non-compliance with this permit that are not specifically required to be recorded elsewhere. The reports shall contain the information listed in paragraph 9 of this section. Compliance with the above reporting requirements shall not excuse the permittee from notification of incidents causing or threatening pollution pursuant to 25 Pa. Code 91.
 10. Signatory and Certification Requirements - The completed forms and reports shall be signed and certified either by the following applicable person (as defined in 40 CFR section 122.22(a)) or by that person's duly authorized representative (as defined in 40 CFR section 122.22(b)):
 - for a corporation - by a responsible corporate officer.
 - for a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
 - for a municipality, state, federal or other public agency - by a principle executive officer or ranking elected official.If signed by other than the above, written notification of delegation of signatory authority must be submitted to the Department.
 11. Copies of all records of self-inspections, annual reports, and other monitoring inspections required by this permit shall be retained for a period of at least five (5) years and shall be made available to the Department for review upon request.

PART B

I. MANAGEMENT REQUIREMENTS

A. Permit Modification, Termination, or Revocation and Reissuance

1. This permit may be renewed, modified, suspended, terminated, or revoked and reissued during its term for any of the causes specified in 25 Pa. Code Chapter 92a.
2. Filing of a request by the permittee for any of the actions in paragraph I.A.1, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
3. In the absence of a Departmental action as described in paragraph I.A.1, the permittee shall comply with any applicable effluent limitations and other requirements within the time specified in 25 Pa. Code §92a.51.
4. Permit renewal, modification, suspension, termination, or revocation and reissuance will be conducted according to 25 Pa. Code Chapter 92a of Department's rules and regulations.
5. In the event that the permittee proposes to modify the operation in a manner that requires an amendment to the NMP under 25 Pa. Code Chapter 83, Subchapter D, the permittee shall first notify the Department and, if required, submit a permit amendment application prior to implementing the modifications to the facilities. The Department may approve or deny this application as provided by 25 Pa. Code, Chapter 92a. If the Department denies this amendment application the permittee has no authorization from the Department to modify the operation.

B. Duty to Provide Information

1. The permittee shall furnish to the Department, within the timeframe specified by the Department, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
2. The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit.
3. If the permittee becomes aware that relevant facts were not submitted in a permit application, or incorrect information was submitted in a permit application or in any subsequent report to the Department, the permittee shall promptly submit such facts or information to the Department.
4. The permittee shall give advance notice to the Department of any planned physical alterations or additions to the operation that could in any way affect the impact on surface waters by the CAFO. Changes to the NMP that are likely to increase the risk of nitrogen and phosphorus transport to surface waters are classified as substantial changes which require an amendment of the NMP, with full public notice and comment pursuant to Part B.I.A.5 and Part C.I.A of this permit.

C. Facilities Operation

The permittee shall at all times maintain in good working order and properly operate and maintain all facilities and systems which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, regular inspection and maintenance programs, and the provision of adequate controls and quality assurance procedures.

II. PENALTIES AND LIABILITY

A. Violations of Permit Conditions

1. Any person violating Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act or any permit condition or limitation implementing such sections in a permit issued under Section 402 of the Act is subject to civil, administrative, and/or criminal penalties as set forth in 40 CFR Part 122.41(a)(2).

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- 2.. Any person who violates any provision of this permit, any rule, regulation, or order of the Department, or any condition or limitation of any permit issued pursuant to The Clean Streams Law is subject to criminal and civil penalties, as set forth in Sections 602, 603 and 605 of The Clean Streams Law.

B. Falsifying Information

Any person who: 1) falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit; or 2) 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 be subject to a fine and/or imprisonment as set forth in 18 P.S. Section 4904 and 40 CFR Sections 122.41(j)(5) and (k)(2).

C. Liability

1. Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance pursuant to the Clean Water Act or The Clean Streams Law.
2. Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under the Clean Water Act or The Clean Streams Law.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the 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.

III. OTHER RESPONSIBILITIES

A. Right of Entry

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law and 25 Pa. Code Chapter 92a, the permittee shall allow the Department, the EPA Regional Administrator, and/or their authorized representatives, upon the presentation of credentials and other documents as may be required by law:

1. To enter upon the permittee's premises where a regulated facility, activity, or operation is located or conducted, or where records must be kept under the conditions of this permit.
2. To have access to and copy at reasonable times any records that must be kept in accordance with the conditions of this permit.
3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit.
4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by The Clean Streams Law or Clean Water Act, any substances or parameters at any location.

The Department, EPA or their authorized agents shall not exercise this right so as to compromise the health, safety and welfare of people or the environment and shall adhere to industry standards for biosecurity. In the event of a contagious disease outbreak, the Department's actions will be consistent with 25 Pa. Code Section 83.491 (Nutrient Management Regulations).

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B. Transfer of Permits

1. Transfers by modification - Except as provided in paragraph 2 of this section, the permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued by the Department to identify the new permittee and incorporate such other requirements as may be necessary under Chapter 92a or the Clean Water Act.
2. Automatic transfers. As an alternative to transfers under paragraph 1 of this section, any NPDES permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in accordance with paragraph 2 b. of this section.
 - b. The notice includes the appropriate Department transfer form signed by the existing and new permittees containing an effective date for transfer of permit responsibility and terms of transfer and liability between them.
 - c. The Department does not notify the existing permittee and the proposed new permittee of its denial of the transfer within 30 days of receipt of written notification from the current permittee. If this notice from the Department is not received, the transfer is effective on the date specified in the transfer form mentioned in paragraph (2)(b) of this section.
3. In the event the Department does not approve a transfer of the permit, the new owner or operator must submit a new permit application within the time specified by the Department.

C. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

D. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

Disposal of dead animals shall be in compliance with the Domestic Animal Act of 1996 (P.L. 561, No. 100), 3 Pa. C.S.A. 2357 et seq.

E. Notification of Intent to Cease Operation

1. Notice of Termination – When the operations permitted under this permit will cease or be eliminated, the owner/operator of the facility shall submit a letter and a Notice of Termination (NOT) of the operation signed in accordance with the signatory requirements contained in the permit application not less than 30 days before the cessation of operations.

The NOT shall include the following information:

- a. Name, mailing address, and location of the facility for which the notification is submitted. Where a mailing address for the site is not applicable, the location shall be described in terms of the latitude and longitude to the nearest 15 seconds.
- b. The operator's name, address, telephone number and ownership status.
- c. The CAFO NPDES permit number and issue date.
- d. The effective date of and reason for stopping the operations.

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- e. The following certification duly signed in accordance with the signatory requirements:

"I certify under penalty of law that the above CAFOs have ceased operation or will cease operation on the date shown at the location specified in this application. I understand that by submitting this notice of termination I am no longer authorized to operate a CAFO at this location. I also understand that operating CAFOs in the Commonwealth without a Department permit is unlawful under the Clean Water Act and The Clean Streams Law".

2. Where to submit NOTs - All Notices of Termination are to be sent to the Department's Regional Office that issued the original CAFO permit.

F. Facility Closure Plan Requirements

All NOTs must be accompanied with a facility/operation closure plan that shall include:

1. A plan for the removal and disposing of all animal waste, processing waste, and bedding material in an environmentally safe manner. The manure and manure-contaminated biodegradable material including soils, may be land applied in accordance with the Manure Management for Environmental Protection Manual or the facility's Nutrient Management Plan.
2. An estimate of the date or season and year in which final facility closure will occur.
3. Erosion and sedimentation control with a schedule of steps.
4. Regrading, revegetation, and stabilization of the affected area.
5. For existing earthen-lined facilities with groundwater monitoring wells in place, an operation plan for post-closure monitoring for a one-year period to assure protection of ground water resources. A written report of monitoring results shall be submitted to the Department at the end of that period.
6. The name, address, and telephone number at which the operator and/or person in charge of the closure operation can be reached.

G. Requests to Terminate Permit

In the event that the permittee changes its operation such that, in the permittee's belief, the operation would no longer be considered a CAFO subject to the Department's Chapter 92 regulations, and the permittee submits a request to terminate the permit, the request shall include the following documentation:

1. If the permittee is considered a CAFO due to exceeding the animal density thresholds under Chapter 83, and has reduced its animal density through the acquisition of new lands for manure application, the permittee shall include documentation that the new lands are under the management control of the permittee. If the permittee has acquired new lands through transfer of ownership, a copy of the deed and map(s) identifying the parcel(s) shall be included. If the permittee has acquired new lands through a rental or lease agreement, a copy of the agreement and map(s) identifying the parcel(s) shall be included. Rental or lease agreements shall have a term of at least one year and be renewable for up to five years for permit termination consideration.
2. If the permittee is considered a CAFO due to exceeding animal density or population thresholds under Chapters 83 or 92, and has reduced its animal populations, the permittee shall include documentation that its populations have been reduced. Such documentation may include financial records or a certified animal count attested to by a third party organization or public agency.

PART C**I. OTHER REQUIREMENTS**

The permittee shall maintain compliance with the following CAFO-specific requirements.

A. Nutrient Management Plans (NMPs) and Manure Management

1. The permittee shall implement a NMP approved under 25 Pa. Code Chapter 83, Subchapter D, as amended, including phosphorus-based planning under revisions to 25 Pa. Code § 83.293 and effective October 1, 2006. All proposed changes to the NMP shall be subject to the requirements in 40 CFR § 122.42(e)(6); 25 Pa. Code Chapter 83, Subchapter D; and Part B.I.A.5 of this permit.
2. All approvals of new or amended NMPs shall be submitted to the Department within 30 days of approval, along with a copy of the new or amended NMP. The permittee may need to apply for an amended permit from the Department, as specified in Part B.I.A.5. The NMP, records and the status of the operation's compliance, shall be reviewed by a nutrient management specialist at least every 3 years to determine whether a plan amendment is required in accordance with 25 Pa Code § 83.362(c). Importer agreements, broker agreements and Nutrient Balance Sheets (NBSs) or NMPs for importing farms shall be kept up to date and maintained on-site, and shall be submitted to the Department upon request.
3. All commercial haulers or brokers removing or transporting manure from the permittee's operation shall complete a certification program or course, receive certification, and maintain certification in accordance with requirements of Department of Agriculture regulations implementing the Commercial Manure Hauler and Broker Certification Act. Certifications for the haulers and brokers directly contracted with the permittee shall be kept on-site and certifications for all haulers and brokers associated with the operation shall be submitted to the Department upon request.
4. The permittee and/or its designated agent(s) or broker(s) shall maintain 100-foot setbacks or 35-foot vegetated buffers for all mechanical manure applications from the top of the bank of surface waters or potential conduits to surface waters, including sinkholes.
5. All manure that is stockpiled for 15 consecutive days or longer shall be covered or otherwise stored in such a way as to prevent a discharge to surface water during rain events. All such stockpiles (covered or uncovered) shall be at least 100 feet from surface waters. Stockpiling of composted manure without cover may be conducted only in the event that such stockpiling cannot be accommodated on the composting pad.
6. The permittee shall record, on the enclosed Quarterly CAFO Self-Inspection Report, 1) the date and location where manure is removed from animal housing areas or manure storage; 2) the amount of manure removed from animal housing areas or manure storage; and 3) the field number(s) where manure is applied.
7. If the permittee exports manure, then the permittee shall complete the "*Manure Exportation Report Form*" and submit it to the Department with the CAFO Quarterly Self-Inspection Report. The permittee shall retain manure exportation records for a minimum of (5) five years that includes the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.
8. The permittee shall maintain a copy of each new, amended or updated NMP on site for a period of (5) five years from the start of the first crop year in each plan.
9. The permittee is only authorized to spread manure on fields that are approved in the CAFO's NMP, unless the plan is first amended in accordance with 25 Pa. Code Chapter 83, Subchapter D, Part B.I.A.5, and Part C.I.A.11 of this permit.
10. The permittee shall only apply manure to fields approved in the NMP during the seasons and months specified in the NMP to ensure adequate nutrient utilization.

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11. The permittee shall collect annual manure samples and review the NMP plan annually to determine if the plan application rates are still appropriate in accordance with 25 Pa. Code § 83.293. Copies of annual NMP reviews must be kept on-site.

B. Preparedness, Prevention and Contingency Plan (PPC Plan)

1. The permittee shall implement and, when necessary, update the Preparedness, Prevention, and Contingency (PPC) Plan submitted with the permit application. The PPC Plan must be kept on-site at all times. The Department may, upon written notice, require revisions and corrections to the PPC Plan if it determines the plan to be inadequate.
2. The permittee shall maintain the emergency contact information from the PPC Plan at a location on-site that is visible to employees and can be accessed quickly in the event of an emergency.
3. Chemicals and other contaminants handled onsite are not disposed of in any manure, litter, process wastewater, or stormwater storage or treatment system, unless it is specifically designed to treat such chemicals and other contaminants.

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

1. The permittee shall implement and, when necessary, update the E&S Plan for plowing or tilling operations (i.e., Soil Conservation Plan) on all land owned or leased by the permittee in accordance with 25 Pa. Code Chapter 102.4(a). The Department may, upon written notice, require revisions and corrections to the E&S Plan for plowing or tilling if it determines the plan to be inadequate.
2. If applicable, the permittee must implement and have available on-site at all times an approved E&S Plan for construction of buildings, manure storage facilities, or other structures. If the proposed earth disturbance associated with construction activity is one or more acres, the permittee shall obtain and comply with an NPDES Permit for Stormwater Discharges Associated with Construction Activities prior to commencing the construction activity.
3. In accordance with 25 Pa. Code Chapter 102.4(a)(4)(iii), the permittee must identify the existence of any animal heavy use areas and develop a plan with BMPs to minimize accelerated erosion and sedimentation. The NMP is required to reflect the current practices utilized to ensure separation occurs between the waters of the Commonwealth and animal heavy use areas or any areas where animals are confined.
4. In accordance with 40 CFR § 122.42(e)(1)(iv), the Department will require the prevention of direct contact of confined animals with waters of the United States.

D. Animal Mortality

The permittee shall comply with 3 Pa. C.S.A. § 2357 et seq. (relating to the Domestic Animal Law) when handling and disposing of dead animals. If mortalities are composted, the composting operation shall be conducted in such a way that it does not impact or threaten to impact water quality, and it must be identified in the NMP. If mortalities are rendered, mortalities shall be stored in containers or at locations that prevent the discharge of pollutants. Animal mortalities shall not be disposed of in any liquid manure or process wastewater system and, the permittee shall handle mortalities in a manner that prevents the discharge of pollutants to surface water.

PART C

E. Best Management Practices (BMP)

The permittee shall implement all BMPs identified or described in the NMP and E&S Plan for the agricultural operation. The permittee shall also implement any BMPs identified or described in the Natural Resources Conservation Service (NRCS) Pennsylvania Technical Guide, and the Department's "Manure Management for Environmental Protection Manual" which are applicable to the agricultural operation.

The Department may require additional BMPs and controls to protect public health and to maintain or restore water quality.

F. Storage of Feed and Other Raw Materials

The permittee shall implement measures to prevent the discharge of pollutants, including those associated with agricultural process wastewater, to surface water from raw material storage areas, including feed storages.

G. Manure Storage Facilities

1. The permittee shall maintain at least **12-inches** of freeboard within the **circular concrete** storage structure at all times. In addition, sufficient capacity shall be provided at the start of the winter period to implement the NMP. The permittee shall install and maintain permanent markers or gauges within the structure to determine freeboard, and shall report freeboard levels on a weekly basis on the CAFO Quarterly Self-Inspection Report.
2. The permittee shall inspect all leak detection system outlets weekly, at a minimum, and report the results on the CAFO Quarterly Self-Inspection Report. In the event that odor, color, or turbidity is detected in the drainage, the permittee shall collect a sample of the drainage and analyze the sample for Ammonia-Nitrogen. The sample results shall be attached to the Self-Inspection Report for the quarter in which the sample was collected. In the event that manure is observed in the discharge, or if the Ammonia-Nitrogen concentration in a sample exceeds 1.0 mg/l (ppm), the permittee shall immediately notify the Department, contain the leak and convey the leak to manure storage or other suitable containment. Manure conveyance shall continue until such time that the leak can be detected and repaired.
3. The permittee shall keep engineering certifications on-site for any liquid or semi-solid manure storage facilities at the operation. The permittee shall also maintain the current design of the manure or litter storage structures on site, as required by 40 CFR Sections 412.47 and 412.37(b)(5). Further, for facilities that require a Water Quality Management permit under § 91.36(a), the permittee shall obtain the permit and follow its conditions and requirements. This includes operation and maintenance requirements. With every subsequent permit renewal application, the permittee shall submit engineering certifications for manure storage facilities to ensure continued structural integrity.

PART C

H. Site-Specific Requirements

Winter Spreading: The permittee shall not spread manure during the winter as defined in 25 Pa. Code § 83.201, except as authorized in the permittee's Nutrient Management Plan, or unless the permittee has fully complied with 25 Pa. Code § 83.372, and has obtained a plan amendment due to unforeseen circumstances. The definition of winter is included in Part A (I)(A).

The permittee shall notify DEP in writing at least 7 days prior to land application of manure during the winter period. The permittee shall certify in the notification that:

- a. Consistent with the approved NMP, actions have been taken to maximize the available capacity in the manure storage facility prior to the winter period to prevent pollution of ground and surface water,
- b. The storage has been properly operated and maintained, and
- c. Manure spread during the winter shall be applied in an amount and a manner consistent with the approved NMP.

The permittee may use the Department of Environmental Protection, Winter Period Application of Manure Notification form to provide the notification.

There shall be no winter application within,

- 1) 100 ft. of an above ground agricultural drain inlet where surface flow is toward the inlet,
- 2) 100 foot of a wetland on the National Wetland Inventory maps which is within the 100 year floodplain of an EV stream segment if surface flow is toward the wetland and
- 3) Unless the fields have 25% cover or an established cover crop – see 25 Pa. Code § 83.294. Additionally, the setbacks in Part A(I)(B)(2)(b) and Part C(I)(A)(4) also shall be implemented.