

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

**Authorization to Discharge under the
National Pollutant Discharge Elimination System
For Concentrated Animal Feeding Operations (CAFOs)**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act", owners and operators of CAFOs in Idaho, except those CAFOs excluded from coverage in Part I of this permit are authorized to discharge in accordance with discharge point(s), effluent limitations, monitoring requirements, and other conditions set forth herein.

This permit shall become effective: *May 9, 2012*

This permit and the authorization to discharge shall expire at midnight: *May 8, 2017*

The permittee shall reapply for a permit reissuance on or before *Nov 9, 2016*, 180 days before the expiration of this permit if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

Signed this *29th* day of *March, 2012*



Michael Bussell, Director
Office of Water and Watersheds

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I. PERMIT AREA AND COVERAGE**A. Permit Area**

This permit offers National Pollutant Discharge Elimination System (NPDES) permit coverage for discharges from operations defined as concentrated animal feeding operations (CAFOs) in the State of Idaho, including CAFOs located in Indian Country.

B. Permit Coverage

This permit covers any operation which:

- Meets the definition of a CAFO at 40 CFR 122.23(b)(2),
- Is located in the Permit Area specified in Part I.A of this permit,
- Meets the criteria for eligibility specified in Part I.C of this permit,
- Seeks NPDES permit coverage for discharges to Waters of the United States, as specified in Part I.E of this permit, and
- Is authorized for coverage by EPA, as specified in Section I.E.7 of this permit.

C. Eligibility for Coverage

Unless excluded from coverage in accordance with Paragraph D or F below, owners/operators of animal feeding operations that are defined as CAFOs, or designated as CAFOs by the permitting authority (See Part VI Definitions, "CAFOs"), are eligible for coverage under this permit. Eligible CAFOs are authorized under the terms and conditions of this permit, and upon the submission of a Notice of Intent (NOI) (see Appendix A) to discharge in accordance with this NPDES general permit.

CAFO owners/operators may also seek to be excluded from coverage under this permit by (1) submitting to EPA (see Part I.I) a notice of termination or (2) by applying for an individual NPDES Permit in accordance with Part I.F.

EPA shall seek input from the appropriate DEQ regional office in determining if a CAFO discharges to a high quality water. If, based upon DEQ's review of the NOI, DEQ notifies EPA that the CAFO will discharge to a high quality water afforded tier 2 antidegradation protection, EPA shall seek input from the appropriate DEQ regional office in determining whether additional analyses, control measures, or other permit conditions are necessary to ensure compliance with DEQ's tier 2 antidegradation provisions.

D. Limitations on Coverage

The following CAFOs are not eligible for coverage under this NPDES general permit, but must apply for an individual permit:

1. CAFOs that have been notified by EPA to apply for an individual NPDES permit in accordance with Part I.F of this permit.
2. CAFOs that have been notified by EPA that they are ineligible for coverage under this general permit due to a past history of non-compliance.
3. CAFOs that are seeking coverage that will adversely affect species that are federally-listed as endangered or threatened (“listed”) under the Endangered Species Act (ESA) or adversely modify critical habitat of those species.
4. CAFOs that are seeking coverage that will have the potential to affect historic properties. CAFO owners/operators must determine whether their permit-related activities have the potential to affect a property that is listed or eligible for listing on the National Register of Historic Places. If the CAFO seeking coverage will have an effect on historic properties, the CAFO’s owners/operators must consult with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other tribal representatives regarding measure to mitigate or prevent any adverse effects on historic properties.
5. New dischargers and new sources to water quality impaired waters, listed on the CWA 303(d) list, unless the owner/operator:
 - a. Prevents any discharges that contain the pollutant(s) for which the waterbody is impaired and includes documentation of procedures taken to prevent such discharge(s) in the facility’s Nutrient Management Plan (NMP), or
 - b. Documents that the pollutant(s) for which the waterbody is impaired is not present at the facility and retains documentation of this finding with the NMP, or
 - c. In advance of submitting the Notice of Intent (NOI), provides to EPA data to support that the discharges are not expected to cause or contribute to an exceedance of water quality standards and retains such data onsite with the NMP. The operator must provide data and other technical information to EPA sufficient to demonstrate:
 - i. For discharges to waters without an EPA approved or established TMDL, that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria at the point of discharge to the waterbody, or
 - ii. For discharges to waters with an EPA approved or established TMDL, that there are sufficient remaining wasteload allocations in an EPA approved or established TMDL to allow the facility’s discharges and existing dischargers to the waterbody are subject to

compliance schedules designed to bring the waterbody into attainment with water quality standards.

EPA shall seek input from the appropriate DEQ regional office to determine if a new discharger or a new source proposing to discharge to an impaired water body will contribute to the existing impairment and whether additional limits or controls are necessary for the discharger to comply with the impaired waters and TMDL provisions specified in Idaho Water Quality Standards.

Operators are eligible under this section if they receive an affirmative determination from EPA Region 10 that the discharge will not contribute to the existing impairment. The operator must maintain such determination onsite.

6. CAFOs with discharges subject to New Source Performance Standards (NSPS) at 40 CFR 412, unless the facility submits an Environmental Information Document (EID) in accordance with Part I.E.8.
7. CAFOs with discharges to a designated outstanding resource water as determined by DEQ. EPA shall seek input from the appropriate DEQ regional office in determining if a CAFO discharges to an outstanding resource water.

E. Application for Coverage

1. Owners/operators of CAFOs seeking to be covered by this permit must submit an NOI (see Appendix A) and a NMP that meets the requirements of Part III.A of this permit.
2. Any owner/operator of a CAFO covered by the 1997 Idaho CAFO General Permit and any owner/operator of a CAFO that has submitted an NOI or an application for coverage by an individual permit prior to the issuance of this general permit must submit a new updated NOI to EPA within 90 days of the effective date of this permit.
3. CAFO owners/operators not covered under Part E.2 above may submit an NOI at any time. Regardless of when the NOI is submitted, the CAFO's authorization is only for discharges that occur after permit coverage is granted. The permitting authority reserves the right to take appropriate enforcement actions for any unpermitted discharges.
4. Contents of the NOI: The NOI submitted for coverage under this permit must include the following information:
 - a. Name of the owner or operator;

- b. Facility location and mailing addresses;
 - c. Latitude and longitude of the production area (entrance to production area);
 - d. Topographic map of the geographic area in which the CAFO is located showing the specific locations of the production area, land application area, all domestic and irrigation wells, and the name and location of the nearest surface waters;
 - e. A diagram of the production area;
 - f. Number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
 - g. Type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under floor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);
 - h. Total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
 - i. Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons); and
 - j. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons).
5. **Signature Requirements:** The NOI must be signed by the owner/operator or other authorized person in accordance with Part V.C.5 of this permit.
6. **Where to Submit:** Signed copies of the NOI or individual permit application must be sent to:

United States Environmental Protection Agency, Region 10
Unit Manager, NPDES Permits Unit
1200 Sixth Avenue, Suite 900 OWW-130
Seattle, WA 98101

Copies of the NOI or individual permit applications shall also be sent to the Idaho State Department of Agriculture (ISDA), the Idaho Department of Environmental Quality (DEQ) state office, and the appropriate DEQ regional offices at:

Idaho State Department of Agriculture
 2270 Old Penitentiary Road
 P.O. Box 790
 Boise, ID 83701

Idaho Department of Environmental Quality
 Water Quality Division
 DEQ State Office
 1410 N. Hilton
 Boise, Idaho 83706

DEQ Boise Regional Office	Counties:	Ada	Gem
Regional Office		Adams	Owyhee
1445 N. Orchard		Boise	Payette
Boise, ID 83706		Canyon	Valley
		Elmore	Washington

DEQ Coeur d'Alene	Counties:	Benewah	Kootenai
Regional Office		Bonner	Shoshone
2110 Ironwood Parkway		Boundary	
Coeur d'Alene, ID 83814			

DEQ Idaho Falls	Counties:	Bonneville	Jefferson
Regional Office		Butte	Lemhi
900 N. Skyline, Suite B		Clark	Madison
Idaho Falls, ID 83402		Custer	Teton
		Fremont	

DEQ Lewiston	Counties:	Clearwater	Lewis
Regional Office		Idaho	Nez Perce
1118 "F" Street		Latah	
Lewiston, ID 83501			

DEQ Pocatello	Counties:	Bannock	Franklin
Regional Office		Bear Lake	Oneida
444 Hospital Way #300		Bingham	Power
Pocatello, ID 83201		Caribou	

DEQ Twin Falls	Counties:	Blaine	Jerome
Regional Office		Camas	Lincoln
1363 Fillmore St.		Cassia	Minidoka
Twin Falls, ID 83301		Gooding	Twin Falls

If the CAFO is located in Indian Country lands or discharges into Tribal waters, the CAFO must send a copy of the NOI or applications for an individual permit to the Tribal Headquarters of the appropriate tribal authority at:

Coeur d'Alene
Mr. Chief J. Allan, Chairman cc. Scott Fields
Coeur d'Alene Tribal Council Water Resource Manager
850 A. St. P.O. Box 408
Plummer, ID 83851-9703

Shoshone-Paiute
Mr. Robert C. Bear cc. Heather Lawrence
P.O. Box 219 Environmental Director
Owyhee, NV 89832

Kootenai
Ms. Jennifer Porter, Chairwoman cc. Kevin Greenleaf
Kootenai Tribal Council Environmental Director
P.O. Box 1269
Bonners Ferry, ID 83805

Nez Perce
Mr. Brooklyn D. Baptiste, Chairman cc. Ken Clark
Nez Perce Tribe of Idaho Water Quality Specialist
P.O. Box 305
Lapwai, ID 83540

Shoshone-Bannock
Mr. Nathan Small, Chairman cc. Elese Teton
Shoshone-Bannock Tribes of Fort Hall Water Engineer
Business Council
P.O. Box 306
Fort Hall, ID 83203

7. Upon receipt, EPA will review the NOI and NMP to ensure that the NOI and NMP are complete. EPA may request additional information from the CAFO owner or operator if additional information is necessary to complete the NOI and NMP or to clarify, modify, or supplement previously submitted material. If EPA makes a preliminary determination that the NOI is complete, the NOI, NMP, and draft terms of the NMP to be incorporated into the permit will be made available for a thirty (30) day public review and comment period. The process for submitting public comments and requests of hearing will follow the procedures applicable to draft permits as specified by 40 CFR 124.11 through 124.13. EPA will respond to comments received during the comment period as specified in 40 CFR 124.17 and, if necessary, require the CAFO owner or operator to revise the NMP in order to be granted permit coverage. If determined appropriate by EPA, CAFOs will be granted coverage under this general permit upon written notification by EPA. EPA will identify the terms of the NMP to be incorporated into the permit in the written notification.

8. For new sources, the National Environmental Policy Act (NEPA) requires EPA to conduct an environmental review pursuant to the Council on Environmental Quality (CEQ) regulations at 40 CFR Parts 1500-1508 and EPA's NEPA implementing regulations at 40 CFR Part 6. NEPA requirements must be complied with prior to allowing permit coverage of new sources (i.e. Large CAFOs whose construction began after April 14, 2003). New sources seeking permit coverage must submit an Environmental Information Document (EID) or Draft Environmental Assessment (EA) along with their NOI and NMP (40 CFR 6.200(g)(2) and 40 CFR Part 6, Subpart C). Information concerning preparation of an EID or EA can be obtained by contacting the NEPA compliance officer of the EPA, Region 10, NPDES Permits Unit.

These NEPA and NOI requirements also apply to expansions of existing CAFOs that meet the definition of a new source at 40 CFR 122.2 and the new source criteria at 40 CFR 122.29(a) and (b). In order to determine if an expansion is a new source, the applicant must submit to EPA information describing the expansion and a map showing the location of the expansion. If EPA determines the expansion meets the new source definition, the owner/operator must prepare and submit an EID or draft EA as described above. The information must be submitted to:

United States Environmental Protection Agency, Region 10
Unit Manager, NPDES Permits Unit
1200 Sixth Avenue, Suite 900 OWW-130
Seattle, WA 98101

F. Requirements for an Individual NPDES Permit

1. EPA may at any time require any facility authorized by this permit to apply for, and obtain, an individual NPDES permit pursuant to 40 CFR § 122.28. EPA will notify the operator, in writing, that an application for an individual permit is required and will set a time for submission of the application. Coverage of the facility under this general NPDES permit is automatically terminated when: (1) the operator fails to submit the required individual NPDES permit application within the defined time frame; or (2) the individual NPDES permit is issued by EPA.
2. Any owner/operator covered under this permit may request to be excluded from the coverage of this permit by applying for an individual permit pursuant to 40 CFR § 122.28. The owner/operator shall submit an application for an individual permit (Form 1 and Form 2B) with the reasons supporting the application to EPA. If a final, individual NPDES permit is issued to an owner/operator otherwise subject to this general permit, the applicability of this NPDES CAFO general permit to the facility is automatically terminated on the effective date of the individual NPDES permit. Otherwise, the applicability of this general permit to

the facility remains in full force and effect (for example, if an individual NPDES permit is denied to an owner/operator otherwise subject to this general permit).

G. Permit Expiration

This permit will expire five (5) years from the effective date. The permittee must re-apply for permit coverage 180 days prior to the expiration of this permit unless the permit has been terminated consistent with § 122.64(b) or the CAFO will not discharge upon expiration of the permit. If this permit is not reissued or replaced prior to the expiration date the permit will be administratively continued and remain in force and effect. Any permittee who has submitted a NOI 180 days prior to the expiration date of the permit and has been granted permit coverage will automatically remain covered by the administratively continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge;
2. Issuance of an individual permit for the discharges;
3. A formal decision by the permitting authority not to reissue this general permit, at which time the permittee must seek coverage under an individual permit; or
4. The permitting authority grants the permittee's request for termination of permit coverage.

H. Change in Ownership

If a change in the ownership of a facility whose discharge is authorized under this permit occurs, coverage under the permit will automatically transfer if (1) the current permittee notifies EPA at least 30 days prior to the proposed transfer date; (2) the notice includes a written agreement between the existing and new permittees containing a specific transfer date for permit responsibility, coverage, and liability between them; and (3) EPA does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If the new CAFO owner or operator modifies any part of the NMP, the NMP shall be submitted to EPA in accordance with Part III.A.6 of the permit and 40 CFR 122.42(e)(6).

I. Termination of Permit Coverage

1. Coverage under this permit may be terminated in accordance with 40 CFR Part 122.64 and if EPA determines in writing that one of the following three conditions are met:
 - a. The facility has ceased all operations and all wastewater or manure storage structures have been properly closed in accordance with the Idaho Natural

Resources Conservation Service (NRCS) Conservation Practice Standard No. 360, Closure of Waste Impoundments (see Appendix C) contained in the *Natural Resources Conservation Service Field Office Technical Guide* and all other remaining stockpiles of manure, litter, or process wastewater not contained in a wastewater or manure storage structure are properly disposed; and

- b. The facility is no longer a CAFO that discharges manure, litter, or process wastewater to waters of the United States; and
 - c. In accordance with 40 CFR 122.64, the entire discharge is permanently terminated by elimination of the flow or by connection to a publicly owned treatment works (POTW).
2. Requests to terminate coverage under this permit must be made in writing and submitted to EPA at the following address:
- United States Environmental Protection Agency, Region 10
Unit Manager, NPDES Permits Unit
1200 Sixth Avenue, Suite 900 OWW-130
Seattle, WA 98101
3. Termination of coverage will become effective 30 days after the written notice is sent by EPA, unless the permittee objects within that time.

II. EFFLUENT LIMITATIONS AND STANDARDS

A. Effluent Limitations and Standards Applicable to the Production Area

There must be no discharge of manure, litter, or process wastewater pollutants into waters of the United States from the production area except as provided below.

1. Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged into waters of the United States provided:
 - a. The production area is designed, constructed, operated, and maintained to contain all manure, litter, process wastewater, and the runoff and direct precipitation from the 25-year, 24-hour storm event for the location of the CAFO.
 - b. The design storage volume is adequate to contain all manure, litter, and process wastewater accumulated during the storage period including, at a minimum, the following:

- i. The normal precipitation less evaporation during the storage period;
 - ii. The normal runoff during the storage period;
 - iii. The direct precipitation from a 25-year, 24-hour storm event;
 - iv. The runoff from the 25-year, 24-hour storm even from the production area;
 - v. The residual solids after liquid has been removed;
 - vi. The necessary freeboard to maintain structural integrity; and
 - vii. In the case of treatment lagoons, the necessary minimum treatment volume.
2. The production area must be operated in accordance with the additional measures and records specific in Part II.A.3 of this permit.
3. Additional Requirements

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

- a. Weekly visual inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater or manure storage structures.
- b. Daily visual inspections of all water lines, including drinking water and cooling water lines.
- c. Install a depth marker in all open wastewater or manure storage structures. The depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.
- d. Weekly inspections of the manure, litter, and process wastewater or manure storage structures noting the level as indicated by the depth marker.
- e. Timely correction of any deficiencies that are identified in daily and weekly inspections.
- f. Proper disposal of animal mortalities. Animal mortalities must not be disposed of in any liquid manure or process wastewater or manure storage

structures. Animal mortalities must be handled as to prevent discharge of pollutants to waters of the United States.

- g. The maintenance of complete on-site records documenting implementation of all required additional measures for a period of five years, including the records specified for Operation and Maintenance in Parts IV and Part V.B.5.
 - h. CAFOs constructing new wastewater or manure storage structures or modifying wastewater or manure storage structures shall insure that all wastewater or manure storage structure design and construction will, at a minimum, be in accordance with standards developed by the Idaho NRCS. The permittee must use those standards that are most current at the time of construction. Existing wastewater or manure storage structures that have been properly maintained and show no signs of structural breakage will be considered to be properly constructed.
 - i. A rain gauge shall be kept on site and properly maintained. A log of all measurable rainfall events shall be kept with the NMP.
 - j. Open lots and associated wastes shall be isolated, as appropriate, from run-on from outside surface drainage by ditches, dikes, berms, terraces, or other such structures designed to carry peak flows expected at times when a 25-year, 24-hour rainfall event occurs. Clean water and flood waters must be diverted, as appropriate, from contact with feedlots and holding pens, and manure and/or process wastewater storage systems. In cases where it is not possible to divert clean water from the production area, the wastewater or manure storage structure shall include adequate storage capacity for the additional clean water. Clean water includes rain falling on the roofs of facilities, runoff from adjacent land, or other sources.
 - k. 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.
4. Other Requirements/Prohibitions Applicable to Production Areas
- a. All discharges to wastewater or manure storage structures shall be composed entirely of manure, litter, or process wastewater from the proper operation and maintenance of the CAFO, and the precipitation from the animal confinement, storage, and handling areas. The disposal of other materials into these wastewater or manure storage structures is prohibited.
 - b. Animals confined at existing CAFOs shall not be allowed to come into direct contact with waters of the United States.

- c. New CAFOs shall not be built in a water of the United States as defined in 40 CFR 122.2 and animals confined at the CAFO shall not be allowed to come into direct contact with waters of the United States.
- d. There shall be no discharge of rainfall runoff from manure, litter, or feed storage piles to waters of the United States.

5. Discharges to Water Quality Impaired Waters

- a. If the CAFO discharges to an impaired water with an EPA approved or established TMDL, EPA will inform the facility if any additional limits or controls are necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in the TMDL, or if coverage under an individual permit is necessary in accordance with Part I.D.1. Any additional limits or controls shall be included in the facility's NMP.
- b. If the CAFO discharges to an impaired water without an EPA approved or established TMDL, EPA will inform the facility if any additional limits or controls are necessary to meet water quality standards, or if coverage under an individual permit is necessary in accordance with Part I.D.1. Any additional limits or controls shall be included in the facility's NMP.
- c. If a CAFO's authorization for coverage under this permit relied on Part I.D.5 for a new discharge to an impaired water, the facility must implement and maintain any control measures or conditions on its site that enabled the CAFO to become eligible under Part I.D.5, and shall include these control measures or conditions in the facility's NMP.
- d. If at any time the facility becomes aware, or EPA determines, that a discharge to an impaired water has occurred and the requirements of Part II.A.5.a-c have not been addressed, the facility must take corrective action to fulfill the requirements of Part II.A.5.a-c. Any changes to the NMP required to fulfill the requirements of Part II.A.5.a-c shall be done in accordance with Part III.A.6.

B. Effluent Limitations and Standards Applicable to the Land Application Area

- 1. For CAFOs where manure, litter, or process wastewater is applied to land under the control of the CAFO owner/operator, the NMP required by Part III of this permit must include the following requirements:

- a. Nutrient transport potential. The NMP must incorporate elements in paragraphs c – h below based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field.
- b. Form, source, amount, timing, and method of application. The NMP must address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.
- c. Determination of application rates. Application rates for manure, litter, or process wastewater must minimize phosphorus and nitrogen transport from the field to surface waters in accordance with the Idaho NRCS Conservation Practice Standard 590 contained in the *Natural Resources Conservation Service Field Office Technical Guide*. (see Appendix B).
- d. Site specific conservation practices. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States.
- e. Protocols to land apply manure, litter or process wastewater. Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater.
- f. Manure and soil sampling. Manure must be analyzed at least once annually for nitrogen and phosphorus content. Soil must be analyzed annually for nitrogen and phosphorus content. The results of these analyses must be used in determining application rates for manure, litter, and process wastewater;
- g. Inspection of land application equipment for leaks. Equipment used for land application of manure, litter, or process wastewater must be inspected periodically for leaks;
- h. Land application setback requirements. Manure, litter, or process wastewater must not be applied closer than 100 feet to any down-gradient water of the United States, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to waters of the United States. The permittee may elect to use a 35-foot vegetated buffer where applications of manure, litter, or process wastewater are prohibited as an alternative to the 100-foot setback to meet this requirement. As an alternative, the permittee may demonstrate to the permitting authority that the use of an alternative practice will result in equivalent or better

pollutant reductions than would be achieved by the use of the 100-foot setback.

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

2. Additional BMPs to control discharges from land application areas

- a. Areas shall be identified that, due to topography, activities, or other factors, have a high potential for runoff and/or soil erosion. Where these areas have the potential to contribute pollutants to waters of the United States, the facility shall identify measures to limit erosion and pollutant runoff.
- b. Irrigation water shall be applied in accordance with applicable federal, state, and local laws and regulations. Irrigation water shall be applied to meet crop requirements and to minimize runoff, ponding, or puddling of wastewater on land application fields to minimize the discharge of pollutants to surface waters.

3. Prohibitions.

- a. There shall be no discharge of manure, litter, or process wastewater to a water of the United States from a CAFO as a result of the application of manure, litter or process wastewater to land areas under the control of the CAFO, except where it is an agricultural storm water discharge. Where manure, litter, or process wastewater has been applied in accordance with the terms of the CAFO's NMP, a precipitation related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.
- b. Winter application of manure, litter, and process wastewater shall be in accordance with the Idaho NRCS Conservation Practice Standard 590 contained in the *Natural Resources Conservation Service Field Office Technical Guide* (see Appendix B).

4. There shall be no dry weather discharges from land application sites.

C. Other Limitations

1. Process wastewater discharges from outside the production area, including wash down of equipment that has been in contact with manure, raw materials, products or byproducts that occurs outside of the production area and runoff of pollutants

from raw materials, products or byproducts (such as manure, feathers, litter, bedding and feed) from the CAFO that have been spilled or otherwise deposited outside the production area, that discharge pollutants to waters of the United States, shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards.

2. Discharges that do not meet the definition of process wastewater, including: discharges associated with feed, fuel, chemical, or oil spills, equipment repair, and equipment cleaning where the equipment has not been in contact with manure, raw materials, products or byproducts; domestic wastewater discharges that discharge to, or contribute pollutants to waters of the United States, shall be identified in the NMP. The NMP shall identify measures necessary to meet applicable water quality standards.
3. Storm water discharges that are not addressed under the effluent limitations in Part II above remain subject to applicable industrial or construction storm water discharge requirements.

III. SPECIAL CONDITIONS

A. Nutrient Management Plan

The permittee shall develop, submit, and implement a site specific NMP. The NMP shall specifically identify and describe practices that will be implemented to assure compliance with the effluent limitations and special conditions of this permit (Parts II and III). Unless otherwise stated in this permit, the NMP must be developed in accordance with the Idaho NRCS, Conservation Practice Standard Code 590 contained in *Natural Resources Conservation Service Field Office Technical Guide*. (see Appendix B).

1. Schedule. The completed NMP must be submitted to EPA with a NOI for CAFOs seeking coverage under this permit. The permittee shall implement its NMP upon authorization under this permit.
2. NMP Review and Terms.
 - a. Upon receipt of the NMP, EPA will review the NMP. If additional information is necessary to complete the NMP, or to clarify, modify, or supplement previously submitted material, EPA may request such information from the CAFO owner or operator.
 - b. The NMP will be used by EPA to identify site specific permit terms, to include the items outlined in Part III.A.3, to be incorporated into this permit. EPA will identify site specific permit terms with respect to protocols for the land application of manure, litter, and process wastewater. EPA will also identify site specific permit terms with respect to manure, litter, and process wastewater storage capacities and site

specific conservation practices based on the CAFO's NMP to the extent that such terms are necessary to support the application rates expressed in the NMP.

- c. When EPA determines that the NMP and NOI are complete, EPA will notify the public of EPA's proposal to grant coverage under the permit and make available for public review and comment the notice of intent submitted by the CAFO, including the CAFO's NMP, and EPA will identify the terms of the NMP to be incorporated into the permit. EPA will provide the opportunity for public notice by publishing the CAFO's NOI, NMP, and terms of NMP to be incorporated into the permit on EPA Region 10's public comment internet site at (<http://yosemite.epa.gov/r10/HOMEPAGE.NSF/Information/R10PN>). The process for public comments, hearing requests and the hearing process if a hearing is held will follow the procedures set forth in 40 CFR 124.11 through 124.13.
 - d. The period of time for the public to comment and request a hearing on the proposed terms of the NMP to be incorporated into the permit shall be thirty (30) days.
 - e. EPA will respond to comments received during the comment period, as provided in 40 CFR 124.17, and, if necessary, require the CAFO owner or operator to revise the NMP in order to be granted permit coverage.
 - f. When EPA authorizes the CAFO owner or operator to discharge under this general permit, the terms of the NMP shall be incorporated as terms and conditions of the permit for the CAFO. EPA will notify the CAFO owner or operator that coverage has been authorized and of the applicable terms and conditions of the permit. EPA will identify the terms of the NMP to be incorporated into the permit in the written notification to the CAFO owner or operator granting coverage under this general permit.
 - g. Each CAFO covered by this permit must comply with the site specific permit terms established by EPA based on the CAFO's site specific NMP.
3. NMP Content. The site specific NMP at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards. In addition, the NMP and each CAFO covered by this permit must, as applicable:
- a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities. All wastewater and manure storage structures shall at a minimum be designed, constructed, operated, and maintained in accordance with *Idaho Natural Resources Conservation Service, Field*

Office Technical Guide. Storage capacity must be sufficient to meet requirements specified in Part II.A.1 of this permit and also must be sufficient to allow the CAFO to comply with the land application schedule specified in the NMP. Considerations shall be made for the land application schedule, as specified in the NMP, and the export of manure, litter, or process wastewater if applicable

If the CAFO needs to maintain storage capacity that exceeds the minimum capacity requirements of Part II.A.1 of this permit to comply with the land application provisions of the NMP, the storage capacity shall become a term of this permit and site specific terms are to be developed by EPA based upon the submitted NMP.

- b. Ensure proper management of mortalities (i.e. dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities. Mortalities shall be handled in such a way as to prevent the discharge of pollutants to waters of the United States. Mortality handling practices shall be in accordance with all applicable Federal, State, and local regulatory requirements.
- c. Ensure that clean water is diverted, as appropriate, from the production area. Any clean water that is not diverted and comes into contact with raw materials, products, or byproducts including manure, litter, process wastewater, feed, milk, eggs, or bedding is subject to the effluent limitations specified in Part II.A of this permit. Where clean water is not diverted from the production area, the wastewater or manure storage structure shall include adequate storage capacity for the additional clean water. Clean water includes, but is not limited to, snow melt and/or rain falling on the roofs of facilities and runoff from adjacent land.
- d. Prevent the direct contact of animals confined or stabled at the facility with waters of the United States.
- e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals or contaminants. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the management of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner sufficient to prevent pollutants from entering the manure, litter, or process wastewater storage structure or waters of the United States. The NMP shall include references to any applicable chemical handling protocols.

- f. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States and specifically, to minimize the runoff of nitrogen and phosphorus. These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, and diversions.
- g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil. Manure, wastewater and soil sampling must be sampled annually and analyzed in accordance with the Idaho NRCS, Conservation Practice Standard Code 590 contained in *Natural Resources Conservation Service Field Office Technical Guide* (see Appendix B).
- h. Establish protocols to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater.

The permittee's site specific NMP shall document the calculation of land application rates of manure, litter, or process wastewater. The National Engineering Handbook Part 651, Agricultural Waste Management Field Handbook, Chapter 11- Waste Utilization shall be used for calculating these rates. The rate calculation shall address the form, source, amount, timing, and method of application on each field to achieve realistic production goals while minimizing nitrogen and phosphorus movement to surface water. The rate calculation and timing of land application shall be based on the results of a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters using the Idaho NRCS Nitrogen and Phosphorus Risk Assessment protocols. The permittee shall comply with site specific permit terms established by EPA for land application of manure, litter, and process wastewater. Development of site specific terms will be based upon EPA's review of the NMP submitted in accordance with the requirements of Parts I.E and III.A of this permit. The NMP must also include any information necessary to assess the adequacy of the application rates included in the NMP.

- i. Application rates may be expressed in NMPs consistent with one of the two approaches described in paragraphs (i) and (ii) below.
 - i. Linear Approach
 - (A) The Linear Approach expresses rates of application as pounds of nitrogen and phosphorus. Permittees selecting the linear approach to address rates of application must

include in the NMP submitted to EPA the following information for each crop, field, and year covered by the NMP, which will be used by EPA to establish site specific permit terms:

1. The maximum application rate (pounds/acre/year of nitrogen and phosphorus) from manure, litter, and process wastewater;
2. The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. The potential for nitrogen and phosphorus transport shall be determined using Idaho NRCS Nitrogen and Phosphorus Risk Assessment protocols. The CAFO must specify any conservation practices used in calculating the risk rating;
3. The crops to be planted or any other uses of a field such as pasture or fallow fields;
4. The realistic annual yield goal for each crop or use identified for each field;
5. The nitrogen and phosphorus recommendations, including the source of the recommendation, for each crop or use identified for each field;
6. Credits for all residual nitrogen in each field that will be plant-available;
7. Consideration of multi-year phosphorus application in accordance with the criteria outlined in the Idaho NRCS, Conservation Practice Standard Code 590 contained in *Natural Resources Conservation Service Field Office Technical Guide* (see Appendix B). For any field where nutrients are applied at a rate based on the crop phosphorus requirement, the NMP must account for single-year nutrient applications that supply more than the crop's annual phosphorus requirement. Where phosphorus-based applications are made, the application rate shall not exceed the recommended nitrogen application rate for the current crop during the year of application, the application shall not be made on sites considered vulnerable to off-site phosphorus

transport unless appropriate conservation practices, best management practices or management activities are used to reduce the vulnerability, and the application of additional phosphorus will not be applied to the field until the amount applied in the single year has been removed through plant uptake and harvest.

8. Accounting for all other additions of plant available nitrogen and phosphorus (i.e., from sources other than manure, litter, or process wastewater or credits for residual nitrogen);
9. The form and source of manure, litter, and process wastewater to be land-applied;
10. The timing and method of land application. The NMP also must include storage capacities needed to ensure adequate storage that accommodates the timing indicated;
11. The methodology that will be used to account for the amount of nitrogen and phosphorus in the manure, litter, and wastewater to be applied; and
12. Any other factors necessary to determine the maximum application rate identified in accordance with the Linear Approach.

(B) Large CAFOs using the Linear Approach must calculate the maximum amount of manure, litter, and process wastewater to be land applied at least once each year using the results of the most recent representative manure, litter, and process wastewater tests of nitrogen and phosphorus. Such representative tests must be taken within 12 months prior to the date of land application.

ii. Narrative Rate Approach

(A) The Narrative Rate Approach expresses a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied. Permittees selecting the narrative rate approach to address rates of application must include in the NMP submitted to EPA the following information for each crop, field, and

year covered by the NMP, which will be used by EPA to establish site specific permit terms:

1. The maximum amounts of nitrogen and phosphorus that will be derived from all sources of nutrients (pounds/acre for each crop and field);
2. The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field. The potential for nitrogen and phosphorus transport shall be determined using Idaho NRCS Nitrogen and Phosphorus Risk Assessment protocols. The CAFO must specify any conservation practices used in calculating the risk rating.
3. The crops to be planted in each field or any other uses of a field such as pasture or fallow fields, including alternative crops if applicable. Any alternative crops included in the NMP must be listed by field, in addition to the crops identified in the planned crop rotation for that field;
4. The realistic annual yield goal for each crop or use identified for each field for each year, including any alternative crops identified;
5. The nitrogen and phosphorus recommendations, including the source of the recommendation, for each crop or use identified for each field, including any alternative crops identified;
6. The methodology (including formulas, sources of data, protocols for making determination, etc.) and actual data that will be used to account for: (1) the results of soil tests required by Parts II.B.1.f and III.A.3.g, (2) credits for all nitrogen in the field that will be plant-available, (3) the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied, (4) consideration of multi-year phosphorus application in accordance with the criteria outlined in the Idaho NRCS, Conservation Practice Standard Code 590 contained in *Natural Resources Conservation Service Field Office Technical Guide* (see Appendix B) and Part III.A.3.i.i.(A).7 above, (5) accounting for all other

additions of plant available nitrogen and phosphorus to the field (i.e., from sources other than manure, litter, or process wastewater or credits for residual nitrogen), (6) the timing and method of land application, and (7) volatilization of nitrogen and mineralization of organic nitrogen.

7. Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach.

(B) NMPs using the Narrative Rate Approach must also include the following projections, which will not be used by EPA in establishing site specific permit terms:

1. Planned crop rotations for each field for the period of permit coverage;
2. Projected amount of manure, litter, or process wastewater to be applied;
3. Projected credits for all nitrogen in the field that will be plant-available;
4. Consideration of multi-year phosphorus application;
5. Accounting for other additions of plant-available nitrogen and phosphorus to the field; and
6. The predicted form, source, and method of application of manure, litter, and process wastewater for each crop.

iii. Identify and maintain all records necessary to document the development and implementation of the NMP and compliance with the permit.

j. Include a legible site map of the production area (including, at a minimum, the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area), and the land application area. The map must also include flow direction, an outline of drainage areas to process wastewater retention or control structures, structural controls, and surface water bodies.

4. The NMP shall be signed by the owner/operator or other signatory authority in accordance with Part V.C.5 (Signatory Requirements) of this permit.

5. A current copy of the NMP shall be kept on site at the permitted facility in accordance with Part V.A.7 of this permit and provided to the permitting authority upon request.
6. Changes to the NMP
 - a. When a CAFO owner or operator covered by this permit makes changes to the CAFO's NMP previously submitted to EPA, the CAFO owner or operator must provide EPA with the most current version of the CAFO's NMP and identify changes from the previous version, with the exception of annual calculations of application rates for manure, litter, and process wastewater as required in Parts III.A.3.i.(B) (for the Linear Approach) and III.A.3.i.ii.(A) (for the Narrative Rate Approach), which are not required to be submitted to EPA.
 - b. When changes to a NMP are submitted to EPA, EPA will review the revised NMP to ensure that it meets the requirements of Parts II.B.1 and III.A.3. If EPA determines that the changes to the NMP necessitate revision to the terms of the NMP incorporated into the permit issued to the CAFO, EPA must determine whether such changes are substantial. Substantial changes to the terms of a NMP incorporated as terms and conditions of a permit include, but are not limited to:
 - i. Addition of new land application areas not previously included in the CAFO's NMP, except that if the added land application area is covered by the terms of a NMP incorporated into an existing NPDES permit and the permittee complies with such terms when applying manure, litter, and process wastewater to the added land;
 - ii. For NMPs using the Linear Approach, changes to the field-specific maximum annual rates of land application (pounds of N and P from manure, litter, and process wastewater).
 - iii. For NMPs using the Narrative Rate Approach, changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop;
 - iv. Addition of any crop or other uses not included in the terms of the CAFO's NMP; and
 - v. Changes to site specific components of the CAFO's NMP, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the U.S.

- c. If EPA determines that the changes to the terms of the NMP are not substantial, EPA will include the revised NMP in the permit record, revise the terms of the permit based on the site specific NMP, and notify the permittee and the public of any changes to the terms of the permit based on revisions to the NMP.
- d. If EPA determines that the changes to the terms of the NMP are substantial, EPA will notify the public, make the proposed changes and the information submitted by the CAFO owner or operator available for public review and comment, and respond to all significant comments received during the comment period. The process for public comments, hearing requests and the hearing process if a hearing is held will follow the procedures set forth in 40 CFR 124.11 through 124.13. EPA may require the permittee to further revise the NMP, if necessary. Once EPA incorporates the revised terms of the NMP into the permit, EPA will notify the permittee of the revised terms and conditions of the permit. EPA will provide an opportunity for public comment as specified in Part III.A.2.c in this permit

7. Requirements associated with NMP implementation

In accordance with Part III.A.3 of this permit, the permittee must:

- a. Have adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities.
- b. Properly manage mortalities.
- c. Divert clean water, as appropriate from the production area.
- d. Prevent direct contact of confined animals with waters of the United States.
- e. Dispose of chemicals and other contaminants handled on-site in accordance with labeled disposal instructions.
- f. Implement site specific conservation practices, including required buffers or equivalent practices.
- g. Take representative samples of manure, litter, and process wastewater and analyze those samples for nutrient content, including nitrogen and phosphorus, at least annually, in accordance with the protocols established in the NMP under Part III.A.3.g. Manure sampling and analysis shall be conducted prior to land application and shall be sampled in accordance with the Idaho NRCS, Conservation Practice Standard Code 590 contained

in *Natural Resources Conservation Service Field Office Technical Guide*. (see Appendix B). The sample shall be sent for analysis as soon after collection as practical and, where necessary, specific preservation procedures shall be utilized to prevent the degradation of the sample.

- h. Representative samples of soil for all fields under the control of the CAFO operator where manure and wastewater may be applied must be collected and analyze those samples for phosphorus content at least once annually, in accordance with the protocols established in the NMP under Part III.A.3.g. Representative samples shall be collected from each field included in the NMP. In all cases the sampling frequency for manure, litter, process wastewater and soil shall be consistent with the Idaho NRCS, Conservation Practice Standard Code 590 contained in *Natural Resources Conservation Service Field Office Technical Guide*. (see Appendix B).
- i. Properly land apply manure, litter, or process wastewater in accordance with the CAFOs site specific NMP.
- j. Maintain site specific records to document the implementation and management of the NMP.
- k. CAFOs that use the Narrative Rate Approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology specified in the NMP pursuant to Part III.A.3.i.ii(A) before land applying manure, litter, and process wastewater. Such calculations must rely on the following data:
 - i. A field-specific determination of soil levels of nitrogen and phosphorus. For nitrogen, the determination must include a concurrent determination of nitrogen that will be plant available. For phosphorus, the determination must include the results of the most recent soil test conducted as required in Parts II.B.1.f and III.A.3.g.
 - ii. The results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months prior to the date of land application, as required in Parts II.B.1.f and III.A.3.g, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

8. Certified Specialists to Develop NMPs

Owners/operators of CAFOs shall use a certified specialist to develop, modify, review, and/or approve the NMP required by this permit. A certified specialist is

an individual who has demonstrated the capacity to develop Comprehensive Nutrient Management Plans (CNMPs) or NMPs in accordance with applicable USDA-NRCS standards, State standards, and when applicable, meets EPA CAFO effluent guidelines, NMP requirements, and NPDES permit requirements. The certified specialist must be certified through the joint certification program of the Idaho State Department of Agriculture, Idaho NRCS and the University of Idaho, or an equivalent certification program sanctioned by USDA-NRCS. The CAFO owner/operator remains solely responsible for assuring the NMP is properly implemented and complies with all applicable permit conditions.

B. Facility Closure

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

1. Closure of Lagoons and Other Surface Impoundments
 - a. No lagoon or other earthen or synthetic lined basin shall be permanently abandoned.
 - b. Lagoons and other earthen or synthetic lined basins shall be maintained at all times until closed in compliance with this section.
 - c. All lagoons and other earthen or synthetic lined basins must be properly closed if the permittee ceases operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of twelve (12) consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either:
 - i. Maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or
 - ii. Removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall notify EPA, in writing, of the action taken, and shall conduct routine inspections, maintenance, and record keeping as though the structure were in use. Prior to restoration of use of the structure, the permittee shall notify EPA, in writing, and provide the opportunity for inspection. The permittee shall properly handle and dispose of the water used to preserve the integrity synthetic or earthen liner during periods of non-use in accordance with the NMP.

- d. All closure of lagoons and other earthen or synthetic lined basins must be consistent with the Idaho NRCS Practice Standard Code 360 contained in *Natural Resources Conservation Service Field Office Technical Guide* (Appendix C). Consistent with this standard the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's NMP, unless otherwise authorized by EPA.
 - e. Unless otherwise authorized by EPA, completion of closure for lagoons and other earthen or synthetic lined basins shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, twelve (12) months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.
2. Closure Procedures for Other Manure, Litter, or Process Wastewater Storage and Handling Structure

No other manure, litter, or process wastewater storage and handling structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within twelve (12) months after the date on which the use of the structure ceased. To close a manure, litter, or process wastewater storage and handling structure, the permittee shall remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's NMP, or document its transfer from the permitted facility in accordance with off-site transfer requirements specified in this permit Part III.C, unless otherwise authorized by EPA.

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

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

D. Additional Special Conditions

1. **Liner Requirements:** CAFOs constructing new wastewater or manure storage structures or modifying existing wastewater or manure storage structures shall insure that all wastewater or manure storage structure design and construction will, at a minimum, be in accordance with the technical standards developed by the Idaho NRCS. All wastewater or manure storage structures shall have a liner that must be constructed and maintained in accordance with Idaho NRCS standards. The permittee must maintain the liner to inhibit the infiltration of wastewaters. Liners shall be protected from animals by fences or other protective devices and no trees shall be allowed to grow such as to intrude or compromise the structure of the liner. Any damage to the liner must be evaluated by a Professional and/or NRCS Engineer and corrected within thirty (30) days of the damage. All documentation of liner maintenance shall be kept with the NMP.

If notified by the State or EPA that the potential exists for the contamination of surface waters or ground water with a direct hydrologic connection to surface water, the permittee shall have a Professional or NRCS engineer review the maintenance documentation and conduct a site evaluation. The permittee shall install a synthetic liner, or leak detection system, or monitoring wells, or take other appropriate measures in accordance with that notice. Documentation of compliance with the notification, including data from monitoring wells, must be kept with the NMP for three (3) years. The first year's monitoring data shall be considered the baseline data for the facility and must be retained on the site for the life of the facility.

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

Any solids, manure, or other pollutants removed in the course of liquid waste removal from the wastewater or manure storage structures shall be disposed of in a manner to prevent pollutants from being discharged to waters of the United States.

3. Spills: Appropriate measures necessary to prevent spills and to cleanup spills of any toxic, hazardous, or other pollutants shall be taken. Procedures for materials handling, storage, and the cleaning up of spills must be specified in the NMP and the necessary equipment to implement clean up shall be made available to facility personnel. All spills and clean-up activities must be documented and all documentation of spills and clean-up must be kept with the NMP.
4. Employee Training: Employees responsible for permit compliance must be regularly trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Training shall include topics such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record-keeping requirements, and spill response and clean up. The permittee is responsible for determining the appropriate training frequency for different levels of personnel and the NMP shall identify dates for such training.

IV. INSPECTION, MONITORING, RECORDKEEPING, AND REPORTING

A. Inspection, Monitoring, and Recordkeeping

The permittee shall inspect, monitor, and record the results of such inspection and monitoring in accordance with Table IV-A:

Table IV-A NPDES CAFO Permit Record Keeping Requirements		
Parameter	Units	Frequency
Permit and NMP (Note: Required by the NPDES CAFO Regulation – applicable to all CAFOs)		
The CAFO must maintain on-site a copy of the current NPDES permit, including the permit authorization notice.	N/A	Maintain at all times
The CAFO must maintain on-site a current site specific NMP that reflects existing operational characteristics. The operation must also maintain on-site all necessary records to document that the NMP is being properly implemented with respect to manure and wastewater generation, storage and handling, land application, and all other minimum practices described in 40 CFR 122.42(e).	N/A	Maintain at all times
Soil and Manure/Wastewater Nutrient Analysis (Note: Required by the CAFO ELG – applicable to Large CAFOs)		
Analysis of manure, litter, and process wastewater to determine nitrogen and phosphorus content. ¹	ppm Pounds/ton	At least annually after initial sampling
Analysis of soil in all fields where land application activities are conducted to determine nitrogen and phosphorus content. ¹	ppm	At least annually after initial sampling

Table IV-A NPDES CAFO Permit Record Keeping Requirements		
Parameter	Units	Frequency
Operation and Maintenance (<i>Note: Required by the CAFO ELG – applicable to Large CAFOs</i>)		
Visual inspection of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to wastewater and manure storage and containment structures.	N/A	Weekly
Visual inspection of all water lines	N/A	Daily ²
Visual inspection of manure, litter, and process wastewater impoundments, including documentation of depth of manure and process wastewater in all liquid impoundments	Feet	Weekly
Documentation of all corrective actions taken. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction.	N/A	As necessary
Documentation of animal mortality handling practices	N/A	As necessary
Design documentation for all manure, litter, and wastewater storage structures including the following information: <ul style="list-style-type: none"> • Volume for solids accumulation • Design treatment volume • Total design storage volume³ • Days of storage capacity 	Cubic yards/gallons Cubic yards/gallons Cubic yards/gallons Days	Once in the permit term unless revised
Documentation of all overflows from all manure and wastewater storage structures including: (<i>Note: Required by the NPDES Regulation – applicable to all CAFOs</i>) <ul style="list-style-type: none"> • Date and time of overflow • Estimated volume of overflow • Analysis of overflow (as required by the Permitting Authority) 	Month/day/year Total gallons ppm	Per event Per event Per event
Land Application (<i>Note: Required by the CAFO ELG – applicable to Large CAFOs</i>)		
For each application event where manure, litter, or process wastewater is applied, documentation of the following by field: <ul style="list-style-type: none"> • Date of application • Method of application • Weather conditions at the time of application and for 24 hours prior to and following application • Total amount of nitrogen and phosphorus applied⁴ 	Month/day/year N/A N/A Pounds/acre	Daily Daily Daily Daily
Documentation of the crop and expected yield for each field	Bushel/acre	Seasonally
Documentation of the actual crop planted and actual yield for each field		
Documentation of test methods and sampling protocols used to sample and analyze manure, litter, and wastewater and soil.	N/A	Once in the permit term unless revised
Documentation of the basis for the application rates used for each field where manure, litter, or wastewater is applied.	N/A	Once in the permit term unless revised

Documentation showing the total nitrogen and phosphorus to be applied to each field including nutrients from the application of manure, litter, and wastewater and other sources	Pounds/acre	Once in the permit term unless revised
Documentation of manure application equipment inspection	N/A	Seasonally
Manure Transfer (Note: Required by the NPDES CAFO Regulation – applicable to Large CAFOs)		
For all manure transfers the CAFO must maintain the following records:		
• Date of transfer	N/A	As necessary
• Name and address of recipient	N/A	As necessary
• Approximate amount of manure, litter, or wastewater transferred	Tons/gallons	As necessary
¹ Refer to the state nutrient management technical standard for the specific analyses to be used. ² Visual inspections should take place daily during the course of normal operations. The completion of such inspection should be documented in a manner appropriate to the operation. Some operations may wish to maintain a daily log. Other operations may choose to make a weekly entry, when they update other weekly records that required daily inspections have been completed. ³ Total design volume includes normal precipitation less evaporation on the surface of the structure for the storage period, normal runoff from the production area for the storage period, 25-year, 24-hour precipitation on the surface of the structure, 25-year, 24-hour runoff from the production area, and residual solids. ⁴ Including quantity/volume of manure, litter, or process wastewater applied and the basis for the rate of phosphorus application.		

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

1. If, for any reason, there is an unauthorized discharge of pollutants to a water of the United States, the permittee is required to make immediate oral notification within 24-hours to the EPA Region 10, NPDES Compliance Unit, Office of Compliance and Enforcement, Seattle, WA at 206-553-1846 and notify ISDA, the appropriate DEQ regional office, and the appropriate county authorities in writing, within five (5) working days of the discharge of pollutants to a water of the United States from the facility. In addition, the permittee shall keep a copy of the notification submitted to the EPA and ISDA together with the other records required by this permit. The discharge notification shall include the following information:
 - a. A description of the discharge and its cause, including a description of the flow path to the receiving water body and an estimate of the flow and volume discharged; and
 - b. The period of non-compliance, including exact dates and times, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge.

C. Monitoring Requirements for All Discharges from Wastewater or Manure Storage Structures

In the event of any overflow or other discharge of pollutants to waters of the United States from a manure or wastewater storage structure, whether or not authorized by this permit the following actions shall be taken:

1. All discharges from wastewater or manure storage structures to waters of the United States shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, nitrate nitrogen, ammonia nitrogen, total phosphorus, E. coli, five-day biochemical oxygen demand (BOD5), total suspended solids, pH, and temperature. The discharge must be analyzed in accordance with approved EPA methods for water analysis listed in 40 CFR Part 136;
2. Record an estimate of the volume of the release and the date and time;
3. Samples shall consist of grab samples collected from the point of overflow or discharge from the waste impoundment or production area. A minimum of one sample shall be collected within 30 minutes of the detection of the overflow or discharge and the sample(s) of the overflow or discharge must be collected and analyzed in accordance with EPA approved methods for water analysis listed in 40 CFR Par 136. The sample(s) collected from the overflow or discharge must be representative of the overflow or discharge;
4. If conditions are not safe for sampling, the permittee must provide documentation of why samples could not be collected and analyzed. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.). However, once dangerous conditions have passed, the permittee shall collect a sample from the wastewater or manure storage structure from which the discharge occurred; and
5. The analytical results of the representative sample(s) taken from the overflow or discharge must be submitted to EPA Region 10, Office of Compliance and enforcement, within thirty (30) days of the overflow or discharge. Copies of the analytical results shall also be submitted to ISDA and the DEQ state and appropriate regional office at the addresses listed in Part I.E.6 of this permit.

D. Spills / Releases in Excess of Reportable Quantities

1. This permit does not relieve the permittee of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

- a. The permittee must provide notice to the National Response Center (NRC) (800-424-8802; in the Washington, DC, metropolitan area call 202-267-2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and
 - b. The permittee must, within 7 calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release. The permittee must also implement measures to prevent the reoccurrence of such releases and to respond to such releases.
2. Any spill of hazardous material must be immediately reported to the appropriate DEQ regional office (see table below). Spills of petroleum products that exceed 25 gallons or that cause a visible sheen on nearby surface waters should be reported to DEQ within 24-hours. Petroleum product spills of less than 25 gallons that do not cause a sheen on nearby surface waters shall only be reported to DEQ if clean-up cannot be accomplished within 24-hours.

DEQ Regional Office contact information for reporting spills

Regional Office	Phone #	Regional Office	Phone #
Boise	(208) 373-0550	Lewiston	(208) 799-4370
Coeur d'Alene	(208) 769-1422	Pocatello	(208) 236-6160
Idaho Falls	(208) 528-2650	Twin Falls	(208) 736-2190

Outside of regular business hours, qualified spills should be reported to the State Communications Center (1-800-632-8000 or 208-846-7610).

E. Annual Reporting Requirements

1. The permittee shall submit an annual report to EPA by March 1st of each year. The annual report shall be submitted to EPA and a copy sent to ISDA at the addresses listed below.

EPA Region 10: Attn: NPDES Compliance Unit
Office of Compliance and Enforcement
1200 6th Avenue, Suite 900
Mail Stop: OCE-133
Seattle, WA 98101

ISDA: Division of Animal Industries
P.O. Box 790
Boise, ID 83701

2. The annual report must include the following information:
 - a. The number and type of animals, whether in open confinement or housed under roof;
 - b. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous twelve (12) months (tons/gallons);
 - c. Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous twelve (12) months (tons/gallons);
 - d. Total number of acres for land application covered by the NMP;
 - e. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous twelve (12) months;
 - f. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including date, time, and approximate volume; and
 - g. Actual crops planted and actual yields for each field for the preceding 12 months.
 - h. Results of all samples of manure, litter or process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land applied.
 - i. Results of calculations conducted in accordance with Parts III.A.3.i.i (for the Linear Approach) and III.A.3.i.ii (for the Narrative Rate Approach).
 - j. Amount of manure, litter, and process wastewater applied to each field during the preceding twelve (12) months.
 - k. For CAFOs using the Narrative Rate Approach to address rates of application:
 - i. The results of any soil testing for nitrogen and phosphorus conducted during the preceding 12 months.
 - ii. The data used in calculations conducted in accordance with Part III.A.3.i.ii.
 - iii. The amount of any supplemental fertilizer applied during the preceding twelve (12) months.

V. STANDARD PERMIT CONDITIONS

A. General Monitoring, Recording, and Reporting Requirements

1. Representative Sampling

Samples and measurements must be representative of the volume and nature of the monitored discharge.

2. Reporting of Monitoring Results

If applicable, the permittee must submit the legible originals of the monitoring results to the Director, Office of Compliance and Enforcement, with copies to ISDA at the following addresses:

US EPA Region 10
Attn: ICIS Data Entry Team
1200 Sixth Avenue, OCE-133
Seattle, Washington 98101

Idaho State Department of Agriculture
Division of Animal Industries
P.O. Box 790
Boise, ID 83701

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted to EPA. Upon request by EPA, the permittee must submit results of any other sampling, regardless of the test method used.

5. Records Contents

Records of monitoring information must include:

- a. The date, exact place, and time of sampling or measurements;
- b. The name(s) of the individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The names of the individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

6. Quality Assurance Plan (QAP)

The permittee must develop and implement a quality assurance plan (QAP) for all monitoring required by this permit. Any existing QAPs may be modified for compliance with this section.

- a. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.
- b. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format that is specified in these documents.
- c. At a minimum, the QAP must include the following:
 - i. Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
 - ii. Map(s) indicating the location of each sampling point.
 - iii. Qualification and training of personnel.
 - iv. Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the permittee.
- d. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
- e. Copies of the QAP must be kept on site and made available to EPA, ISDA, and/or DEQ upon request.

7. Retention of Records

The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA or insert State/Tribal agency at any time.

8. Other Noncompliance Reporting

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part V.A.2 (“Reporting of Monitoring Results”) are submitted. The reports must contain the information listed in Part IV.B of this permit (“Notification of Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application”).

9. Changes in Discharge of Toxic Pollutant

The permittee must notify the Director of the Office of Water and Watersheds and DEQ as soon as it knows, or has reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
 - i. One hundred micrograms per liter (100 ug/l);
 - ii. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - iv. The level established by EPA in accordance with 40 CFR 122.44(f).

- b. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
 - i. Five hundred micrograms per liter (500 ug/l);
 - ii. One milligram per liter (1 mg/l) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - iv. The level established by EPA in accordance with 40 CFR 122.44(f).

- c. The permittee must submit the notification to Office of Water and Watersheds at the following address:

US EPA Region 10
Attn: NPDES Permits Unit Manager
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101

B. Compliance Responsibilities

1. Duty to Comply

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

2. Penalties for Violations of Permit Conditions

- a. **Civil and Administrative Penalties.** Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$37,500 per day for each violation).
- b. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$37,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$177,500).

c. Criminal Penalties:

- i. **Negligent Violations.** The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.
- ii. **Knowing Violations.** Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- iii. **Knowing Endangerment.** Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- iv. **False Statements.** The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further

provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

3. 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 this permit.

4. Duty to Mitigate

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

5. Proper Operation and Maintenance

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

6. Bypass of Treatment Facilities

a. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs b and c of this Part.

b. Notice.

i. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior written notice, if possible at least 10 days before the date of the bypass.

ii. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part IV.B ("Notification of

Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application”).

- c. Prohibition of bypass.
 - i. Bypass is prohibited, and the Director of the Office of Compliance and Enforcement may take enforcement action against the permittee for a bypass, unless:
 - (A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph b of this Part.
 - ii. The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph c.i. of this Part.

7. Upset Conditions

- a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph b of this part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- b. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - i. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - ii. The permitted facility was at the time being properly operated;
 - iii. The permittee submitted notice of the upset as required under Part IV.B, “Notification of Discharges Resulting from Manure, Litter,

and Process Wastewater Storage, Handling, On-site Transport and Application;” and
iv. The permittee complied with any remedial measures required under Part V.B.4, “Duty to Mitigate.”

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

8. Toxic Pollutants

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

9. Planned Changes

The permittee must give written notice to the Director of the Office of Water and Watersheds as specified in Part V.A.9.C as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under Part V.A.9 (“Changes in Discharge of Toxic Substances”).

10. Anticipated Noncompliance

The permittee must give written advance notice to the Director of the Office of Compliance of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

C. General Provisions

1. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

2. Duty to Reapply

If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Regional Administrator, the permittee must submit a new application at least 180 days before the expiration date of this permit.

3. Duty to Provide Information

The permittee must furnish to EPA, within the time specified in the request, any information that EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee must also furnish to EPA, upon request, copies of records required to be kept by this permit.

4. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to EPA, it must promptly submit the omitted facts or corrected information in writing.

5. Signatory Requirements

All applications, reports or information submitted to EPA must be signed and certified as follows.

- a. All permit applications must be signed as follows:
 - i. For a corporation: by a responsible corporate officer.
 - ii. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - iii. For a municipality, state, federal, Indian tribe, or other public agency: by either a principal executive officer or ranking elected official.
- b. All reports required by the permit and other information requested by EPA must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - i. The authorization is made in writing by a person described above;

- ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - iii. The written authorization is submitted to the Director of the Office of Compliance and Enforcement.
- c. Changes to authorization. If an authorization under Part V.C.5.b is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.C.5.b must be submitted to the Director of the Office of Compliance and Enforcement and the Idaho State Department of Agriculture prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Certification. Any person signing a document under this Part must make the following certification:

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

6. Availability of Reports

In accordance with 40 CFR 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

7. Inspection and Entry

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; insert State/Tribal agency; or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

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

8. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

9. Transfers

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds as specified in Part V.A.9.c. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

10. State Laws

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

VI. DEFINITIONS

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

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

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

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

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

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

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

Large CAFO means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories: (i) 700 mature dairy cattle, whether milked or dry; (ii) 1,000 veal calves; (iii) 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (iv) 2,500 swine each weighing 55 pounds or more; (v) 10,000 swine each weighing less than 55 pounds; (vi) 500 horses; (vii) 10,000 sheep or lambs; (viii) 55,000 turkeys; (ix) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system; (x) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 82,000 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 5,000 ducks (if the AFO uses a liquid manure handling system).

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

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

Medium CAFO means any AFO that stables or confines as many or more than the numbers of animals specified in any of the following categories: (i) 200 to 699 mature dairy cattle, whether milked or dry cows; (ii) 300 to 999 veal calves; (iii) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (iv) 750 to 2,499 swine each weighing 55 pounds or more; (v) 3,000 to 9,999 swine each weighing less than 55 pounds; (vi) 150 to 499 horses, (vii) 3,000 to 9,999 sheep or lambs, (viii) 16,500 to 54,999 turkeys, (ix) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; (x) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (xi) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; (xii) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or (xiii) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system) **and** either one of the following conditions are met (a) pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or (b) pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Notice of Intent (NOI) is a form submitted by the owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). [(40 CFR §128.28(b)(2)(ii)].

Process wastewater means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with or is a constituent of raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production area means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal containment area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers,

cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

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

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

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

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

Waters of the United States means: (1) all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; (2) all interstate waters, including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, and streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) which are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or, which are or could be used for industrial purposes by industries in interstate commerce; (4) all impoundments of waters otherwise defined as waters of the United States; (5) tributaries of waters identified in (1) through (4) of this definition; (6) the territorial sea; and (7) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in items (1) through (6) of this definition.

APPENDIX A
Notice of Intent – NPDES Form 2B

EPA I.D. NUMBER (copy from Item 1 of Form 1)

FORM 2B NPDES	EPA U.S. ENVIRONMENTAL PROTECTION AGENCY APPLICATIONS FOR PERMIT TO DISCHARGE WASTEWATER CONCENTRATED ANIMAL FEEDING OPERATIONS AND AQUATIC ANIMAL PRODUCTION FACILITIES
------------------------------	---

I. GENERAL INFORMATION Applying for: Individual Permit Coverage Under General Permit

A. TYPE OF BUSINESS	B. CONTACT INFORMATION	C. FACILITY OPERATION STATUS
<input type="checkbox"/> 1. Concentrated Animal Feeding Operation (complete items B, C, D, and Section II) <input type="checkbox"/> 2. Concentrated Aquatic Animal Production Facility (complete items B, C, and section III)	Owner/or Operator Name: _____ Telephone: (____) _____ Address: _____ Facsimile: (____) _____ City: _____ State: _____ Zip Code: _____	<input type="checkbox"/> 1. Existing Facility <input type="checkbox"/> 2. Proposed Facility

D. FACILITY INFORMATION

Name: _____ Telephone: (____) _____
 Address: _____ Facsimile: (____) _____
 City: _____ State: _____ Zip Code: _____
 County: _____ Latitude: _____ Longitude: _____

If contract operation: Name of Integrator: _____
 Address of Integrator: _____

II. CONCENTRATED ANIMAL FEEDING OPERATION CHARACTERISTICS

A. TYPE AND NUMBER OF ANIMALS	B. Manure, Litter and/or Wastewater Production and Use																														
2. ANIMALS <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:30%;">1. TYPE</th> <th style="width:20%;">NO. IN OPEN CONFINEMENT</th> <th style="width:20%;">NO. HOUSED UNDER ROOF</th> </tr> </thead> <tbody> <tr><td><input type="checkbox"/> Mature Dairy Cows</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Dairy Heifers</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Veal Calves</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Cattle (not dairy or veal)</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Swine (55 lbs. or over)</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Swine (under 55 lbs.)</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Horses</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Sheep or Lambs</td><td></td><td></td></tr> <tr><td><input type="checkbox"/> Turkeys</td><td></td><td></td></tr> </tbody> </table>	1. TYPE	NO. IN OPEN CONFINEMENT	NO. HOUSED UNDER ROOF	<input type="checkbox"/> Mature Dairy Cows			<input type="checkbox"/> Dairy Heifers			<input type="checkbox"/> Veal Calves			<input type="checkbox"/> Cattle (not dairy or veal)			<input type="checkbox"/> Swine (55 lbs. or over)			<input type="checkbox"/> Swine (under 55 lbs.)			<input type="checkbox"/> Horses			<input type="checkbox"/> Sheep or Lambs			<input type="checkbox"/> Turkeys			<p>1) How much manure, litter and wastewater is generated annually by the facility? ____ tons ____ gallons</p> <p>2) If land applied how many acres of land under the control of the applicant are available for applying the CAFOs manure/litter/wastewater? _____ acres</p> <p>3) How many tons of manure or litter, or gallons of wastewater produced by the CAFO will be transferred annually to other persons? tons/gallons (circle one) _____ gallons</p>
1. TYPE	NO. IN OPEN CONFINEMENT	NO. HOUSED UNDER ROOF																													
<input type="checkbox"/> Mature Dairy Cows																															
<input type="checkbox"/> Dairy Heifers																															
<input type="checkbox"/> Veal Calves																															
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<input type="checkbox"/> Swine (under 55 lbs.)																															
<input type="checkbox"/> Horses																															
<input type="checkbox"/> Sheep or Lambs																															
<input type="checkbox"/> Turkeys																															

<input type="checkbox"/> Chickens (Broilers)		
<input type="checkbox"/> Chickens (Layers)		
<input type="checkbox"/> Ducks		
<input type="checkbox"/> Other Specify _____		
3. TOTAL ANIMALS		

C. TOPOGRAPHIC MAP

D. TYPE OF CONTAINMENT, STORAGE AND CAPACITY

1. Type of Containment	Total Capacity (in gallons)
<input type="checkbox"/> Lagoon	
<input type="checkbox"/> Holding Pond	
<input type="checkbox"/> Evaporation Pond	
<input type="checkbox"/> Other: Specify _____	

2. Report the total number of acres contributing drainage: _____ acres

3. Type of Storage	Total Number of Days	Total Capacity (gallons/tons)
<input type="checkbox"/> Anaerobic Lagoon		
<input type="checkbox"/> Storage Lagoon		
<input type="checkbox"/> Evaporation Pond		
<input type="checkbox"/> Aboveground Storage Tanks		
<input type="checkbox"/> Belowground Storage Tanks		
<input type="checkbox"/> Roofed Storage Shed		
<input type="checkbox"/> Concrete Pad		
<input type="checkbox"/> Impervious Soil Pad		
<input type="checkbox"/> Other: Specify _____		

E. NUTRIENT MANAGEMENT PLAN

Note: Effective February 27, 2009, a permit application is not complete until a nutrient management plan is submitted to the Permitting Authority.

1. Please indicate whether a nutrient management plan has been included with this permit application. Yes No

2. If no, please explain:

3. Is a nutrient management plan being implemented for the facility? Yes No

4. The date of the last review or revision of the nutrient management plan. Date: _____

5. If not land applying, describe alternative use(s) of manure, litter, and or wastewater:

F. LAND APPLICATION BEST MANAGEMENT PRACTICES Please check any of the following best management practices that are being implemented at the facility to control runoff and protect water quality: <input type="checkbox"/> Buffers <input type="checkbox"/> Setbacks <input type="checkbox"/> Conservation tillage <input type="checkbox"/> Constructed wetlands <input type="checkbox"/> Infiltration field <input type="checkbox"/> Grass filter <input type="checkbox"/> Terrace						
III. CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITY CHARACTERISTICS						
A. For each outfall give the maximum daily flow, maximum 30-day flow, and the long-term average flow.			B. Indicate the total number of ponds, raceways, and similar structures in your facility.			
1. Outfall No.	2. Flow (<i>gallons per day</i>)			1. Ponds	2. Raceways	3. Other
	a. Maximum Daily	b. Maximum 30 Day	c. Long Term Average	C. Provide the name of the receiving water and the source of water used by your facility.		
				1. Receiving Water	2. Water Source	
D. List the species of fish or aquatic animals held and fed at your facility. For each species, give the total weight produced by your facility per year in pounds of harvestable weight, and also give the maximum weight present at any one time.						
1. Cold Water Species			2. Warm Water Species			
a. Species	b. Harvestable Weight (<i>pounds</i>)		a. Species	b. Harvestable Weight (<i>pounds</i>)		
	(1) Total Yearly	(2) Maximum		(1) Total Yearly	(2) Maximum	
E. Report the total pounds of food during the calendar month of maximum feeding.			1. Month	2. Pounds of Food		
IV. CERTIFICATION						
<i>I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.</i>						
A. Name and Official Title (<i>print or type</i>)			B. Phone No. ()			
C. Signature			D. Date Signed			

INSTRUCTIONS

GENERAL

This form must be completed by all applicants who check "yes" to Item II-B in Form 1. Not all animal feeding operations or fish farms are required to obtain NPDES permits. Exclusions are based on size. See the description of these statutory and regulatory exclusions in the General Instructions that accompany Form 1.

For aquatic animal production facilities, the size cutoffs are based on whether the species are warm water or cold water, on the production weight per year in harvestable pounds, and on the amount of feeding in pounds of food (*for cold water species*). Also, facilities which discharge less than 30 days per year, or only during periods of excess runoff (*for warm water fish*) are not required to have a permit.

Refer to the Form 1 instructions to determine where to file this form.

Item I-A

See the note above and the General Instructions which accompany Form 1 to be sure that your facility is a "concentrated animal feeding operation" (CAFO).

Item I-B

Use this space to give owner/operator contact information.

Item I-C

Check "proposed" if your facility is not now in operation or is expanding to meet the definition of a CAFO in accordance with the information found in the General Instructions that accompany Form 1.

Item I-D

Use this space to give a complete legal description of your facility's location including name, address, and latitude/longitude. Also, the if a contract grower, the name and address of the integrator.

Item II

Supply all information in item II if you checked (1) in item I-A.

Item II-A

Give the maximum number of each type of animal in open confinement or housed under roof (either partially or totally) which are held at your facility for a total of 45 days or more in any 12 month period. Provide the total number of animals confined at the facility.

Item II-B

Provide the total amount of manure, litter and wastewater generated annually by the facility. Identify if manure, litter and wastewater generated by the facility is to be land applied and the number of acres, under the control of the CAFO operator, suitable for land application. If the answer to question 3 is yes, provide the estimated annual quantity of manure, litter and wastewater that the applicant plans to transfer off-site.

Item II-C

Check this box if you have submitted a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area.

Item II-D

1. Provide information on the type of containment and the capacity of the containment structure (s).

2. The number of acres that are drained and collected in the containment structure (s).

3. Identify the type of storage for the manure, litter and/or wastewater. Give the capacity of this storage in days and gallons or tons.

Item II-E

Provide information concerning the status of submitting a nutrient management plan for the facility to complete the application. In those cases where the nutrient management plan has not been submitted, provide an explanation. If not land applying, describe the alternative uses of the manure, litter, and wastewater (*e.g.*, composting, pelletizing, energy generation, etc.).

Item II-F

Check any of the identified conservation practices that are being implemented at the facility to control runoff and protect water quality.

Item III

Supply all information in Item III if you checked (2) in Item I-A.

Item III-A

Outfalls should be numbered to correspond with the map submitted in Item XI of Form 1. Values given for flow should be representative of your normal operation. The maximum daily flow is the maximum measured flow occurring over a calendar day. The maximum 30-day flow is the average of measured daily flow over the calendar month of highest flow. The long-term average flow is the average of measure daily flows over a calendar year.

Item III-B

Give the total number of discrete ponds or raceways in your facility. Under "other," give a descriptive name of any structure which is not a pond or a raceway but which results in discharge to waters of the United States.

Item III-C

Use names for receiving water and source of water which correspond to the map submitted in Item XI of Form 1.

Item III-D

The names of fish species should be proper, common, or scientific names as given in special Publication No. 6 of the American Fisheries Society. "A List of Common and Scientific Names of Fishes from the United States and Canada." The values given for total weight produced by your facility per year and the maximum weight present at any one time should be representative of your normal operation.

Item III-E

The value given for maximum monthly pounds of food should be representative of your normal operation.

Item IV

The Clean Water Act provides for severe penalties for submitting false information on this application form.

Section 309(C)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement, representation, or certification in any application...shall upon conviction, be punished by a fine of no more than \$10,000 or by imprisonment for not more than six months, or both."

Federal regulations require the certification to be signed as follows:

- A. For corporation, by a principal executive officer of at least the level of vice president.
- B. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- C. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.

Paper Reduction Act Notice

The Public reporting burden for this collection of information estimated to average 4 hours per response. The estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information to the chief, Information Policy Branch (PM-223), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, marked Attention: Desk Officer for EPA.

APPENDIX B

NRCS Conservation Practice Standard Code 590 -Nutrient Management

**NATURAL RESOURCES CONSERVATION SERVICE
CONSERVATION PRACTICE STANDARD**

NUTRIENT MANAGEMENT

(Acre)

CODE 590

DEFINITION

Managing the amount, source, placement, form and timing of the application of nutrients and soil amendments.

PURPOSES

It is intended that nutrient management plans, developed from this standard, be used to help producers improve or maintain their level of management and expertise as it relates to the application of nutrients on the lands they own and/or control.

- To budget and supply adequate nutrients for plant production.
- To properly utilize manure or organic by-products as a plant nutrient source.
- To minimize or prevent agricultural nonpoint source pollution of surface and ground water resources.
- To protect air quality by reducing nitrogen emissions (ammonia and NO_x compounds) and the formation of atmospheric particulates.
- To maintain or improve the physical, chemical and biological condition of soil.

CONDITIONS WHERE PRACTICE APPLIES

This practice applies to all lands where plant nutrients and soil amendments are applied. Soil amendments include composted animal waste.

Animal waste deposited by grazing animals on

pasture or rangeland where there are no additional nutrients applied as commercial fertilizer or soil amendments is not considered land application.

CRITERIA

General Criteria Applicable to All Purposes

A Nutrient Management Plan (NMP) for nitrogen (N), phosphorus (P) and potassium (K) shall be developed when nutrients are applied.

NMPs shall be developed in accordance with policy requirements of the Natural Resources Conservation Service (NRCS) General Manual Title 450, Part 401.03 (Technical Guides, Policy and Responsibilities) and Title 190, Part 402 (Ecological Sciences, Nutrient Management, Policy); technical requirements of the Idaho NRCS Field Office Technical Guide (FOTG); procedures contained in the National Planning Procedures Handbook (NPPH) and the NRCS National Agronomy Manual (NAM), Section 503.

Persons who approve plans for nutrient management shall be certified through the joint certification program of the Idaho State Department of Agriculture, Idaho NRCS and the University of Idaho, or other acceptable program as designated by the State Conservationist.

The NMP shall consider all potential sources of nutrients. These sources include, but are not limited to, animal waste, composted animal waste, other composted by-products, organic by-products, waste water, commercial fertilizer, crop residues, legumes and irrigation water.

Conservation practice standards are reviewed periodically, and updated if needed. To obtain the current version of this standard, contact your Natural Resources Conservation Service State Office or download it from the electronic Field Office Technical Guide for your state.

**NRCS, IDAHO
June 2007**

The NMP shall specify the source, amount, timing and method of application of nutrients on each field to achieve realistic production goals, while minimizing movement of nutrients and other potential contaminants to surface and/or ground waters.

The NMP shall contain all the required elements outlined in the “Plans and Specifications” section of this document. The NMP will include the nutrient budget for each field based on a current soil test, and will provide a risk assessment to determine if additional conservation practices will be required to prevent off-site movement of N and P. Off-site movement is defined as movement of N or P off the field or management unit, downward through the soil profile beyond the rooting zone, or above the canopy, of the crop to be planted.

For development of the risk assessment, acceptable soil tests are those no older than five years. If the field has a history of manure application or the management has changed significantly, then the requirement is no older than one year.

Soil samples taken for purposes of developing the annual nutrient budget shall be taken as described in Table 1, or as specified in the appropriate Fertilizer Guides (FG) or University of Idaho (UI) “Soil Sampling” publication.

The potential for loss of nutrients via erosion, runoff, irrigation and drainage shall be addressed. Individual risk factors that rate “high” or “very high,” as determined by the approved risk assessment tools, will require application of mitigating practices.

Realistic yield goals shall be established based on soil productivity information, historical yield data, climatic conditions, level of management and/or local research on similar soils, cropping systems and soil moisture conditions (dryland).

Setbacks and buffers shall be established around sensitive areas (e.g. sinkholes, wells, gullies, ditches, surface inlets or rapidly permeable soil areas). These setbacks shall not receive direct application of nutrients from any source including sprinkler irrigation. Minimum setback

requirements are contained in the standards Riparian Forest Buffer (391) and Filter Strip (393). Rock outcrops may also pose a potential for off-site transport. Direct application of nutrients on rock outcrops should be avoided wherever feasible.

Soil Sampling and Laboratory Analyses

(Testing). Soil samples shall be collected and prepared such that they are representative of the entire Conservation Management Unit (CMU), field or portion of the field to be managed separately. Requirements for soil sampling shall follow the specifications outlined in the UI publication “Soil Sampling” (CES Number 704 <http://info.ag.uidaho.edu/resources/pdfs/ext0704.pdf>) or crop-specific soil sampling requirements outlined in the UI Fertilizer Recommendations (<http://info.ag.uidaho.edu:591/catalog/fertilizers.html>).

Soil analyses shall be performed by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program (NAPT) under the auspices of the Soil Science Society of America.

Laboratory analysis shall include the components shown in Table 1. Soil samples will be analyzed for P using the test methods specified in the applicable UI Fertilizer Guides or other UI production publications containing nutrient guidelines.

Table 1. Soil sampling requirements for annual budget development.		
Depth	Constituent Analyzed¹	Sample Date No Older Than:
<u>Northern Idaho</u>		
0 - 12 inches	NO ₃ -N, NH ₄ -N P, K pH, % SOM ² , EC ³	9 months
12 – 24 inches	NO ₃ -N	9 months
<u>Southern Idaho</u>		

0 - 12 inches	NO ₃ -N, NH ₄ -N	3 months
	P, K pH, % SOM ² % free lime, EC ³	9 months
12 – 24 inches	NO ₃ -N, NH ₄ -N	3 months

¹ In northern Idaho, P is usually analyzed using the Morgan (Sodium Acetate) method or Bray1 (Ammonium Fluoride-Hydrochloric Acid), and in southern Idaho, P is analyzed using the Olsen (Sodium Bicarbonate) method.

² SOM is soil organic matter.

³ EC is electrical conductivity, salt concentration, soluble salts, etc.

Nutrient Application Rates. The planned rates of nutrient application, as documented in the nutrient budget, shall be applied to meet the crop needs except when manure or organic by-products are a source of nutrients. When manure or organic-matter by-products are applied, refer to “Additional Criteria Applicable to Manure and Organic By-Products or Biosolids Applied as a Plant Nutrient Source.”

Nutrient Application Timing. Timing and method of nutrient application (particularly nitrogen) shall correspond as closely as possible with plant nutrient uptake characteristics while considering cropping system limitations, weather and climatic conditions, risk analysis and field accessibility.

Nutrient Application Methods. Application methods to reduce the risk of nutrient transport to surface and ground water or into the atmosphere shall be employed.

To minimize nutrient losses:

- Apply nutrient materials uniformly to application area(s).
Nutrients shall not be applied to frozen, snow-covered or saturated soil if the potential risk for runoff exists.
- Nutrients shall be applied considering the plant growth habits, irrigation practices and

other conditions so as to maximize availability to the plant and minimize the risk of runoff, leaching and volatilization losses.

- Calibrate waste and fertilizer application equipment to ensure recommended rates are applied.

Additional Criteria Applicable to Manure and Organic By-Products or Biosolids Applied as a Plant Nutrient Source

Manure and Organic By-Products Nutrient Application Methods. In addition to previously detailed criteria, manure and organic by-product application methods shall be selected to minimize the risk of nutrient transport to surface and ground water, into the atmosphere and to reduce negative impacts on plant health. NMPs that address land application of animal waste shall comply with the Idaho Waste Management Guidelines for Confined Animal Feeding Operations (CAFOs), 1993, amended 1997 (<http://www.idahoag.us/Categories/Animals/Dairy/Documents/Idaho%20Waste%20Management%20Guidelines%20For%20Confined%20Feeding%20Operations,%20Amended%20in%201997.pdf>) and other applicable Federal, State and local rules and regulations.

Manure Testing. Nutrient values of manure and organic by-products shall be determined prior to land application. Samples will be taken and analyzed with each hauling/emptying cycle for a particular storage/treatment facility. Manure sampling frequency may vary based on the operation’s manure handling strategy and spreading schedule. If there is no prior sampling history, the manure shall be analyzed at least annually for a minimum of three consecutive years. A cumulative record shall be developed and maintained until a consistent (i.e., maintaining a certain nutrient concentration with minimal variation) level of nutrient values is realized. Significant changes in feed P ration or manure storage and handling procedures will require additional manure sampling. Samples shall be collected and prepared according to UI “Manure and Wastewater Sampling” guidance (CIS 1139) (<http://info.ag.uidaho.edu/pdf/CIS/CIS1139.pdf>)

At a minimum, manure analyses shall identify total N, P₂O₅ and K₂O in pounds per ton for solids and pounds per 1,000 gallons for liquids. Percent moisture for solids and percent solids for liquids will also be identified.

In planning for new operations, acceptable “book values” recognized by the Idaho NRCS and/or the University of Idaho may be used (e.g., NRCS Agricultural Waste Management Field Handbook).

Application of Solid Wastes. Solid waste shall be incorporated into the soil unless applications are made on frozen ground, perennial crops or cropland under no-till. In these cases, emergency tillage (i.e., chiseling and disking cross slope), construction of berms or other containment practices will be applied as necessary to prevent surface runoff.

- Winter application of solids on 0 – 2% slope fields can be considered if there is no potential for runoff.
- Fall and winter application of solid wastes on shallow and/or sandy soils should be made when soil temperatures are <50° F to minimize loss of nitrogen.
- Solid waste applications used as part of a management system on croplands that have soils erodible by wind should utilize delayed incorporation or incorporation with chisel plow, provided there is low potential for runoff.

Biosolids (sewage sludge) shall be applied in accordance with the Idaho Department of Environmental Quality (DEQ) (<http://adm.idaho.gov/adminrules/rules/idapa58/0117.pdf>) and US Environmental Protection Agency (EPA) regulations. (40 CFR Parts 403 (Pretreatment) and 503 (Biosolids)).

Application of Liquid Wastes. For purposes of this standard, animal waste containing less than 10% solids will be classified as a liquid. Application of liquid waste shall not be made outside the active crop growing period unless a site-specific water budget shows that deep percolation of wastewater or runoff will not occur prior to the next crop-growing season.

Application of liquid wastes through surface or sprinkler irrigation systems will be timed to prevent deep percolation or runoff. The application rate (in/hr) of liquids shall not exceed the soil intake/infiltration rate and shall be adjusted to minimize ponding and to avoid runoff. The total application volume shall not exceed the soil water holding capacity of the soil and shall be adjusted, as needed, to minimize nutrient loss below the root zone.

Manure and Organic By-Product Nutrient Application Rates. Nutrient budgets which include application of animal waste shall be based upon the NRCS Idaho Phosphorus Threshold (IDPTH).

Idaho Phosphorus Threshold (IDPTH)

The IDPTH is based on a soil test P concentration. It is used:

- To determine the method for developing the nutrient budget. This could be either crop uptake or recommended application rate cited in the UI Crop Specific Fertilizer Guide.
- To track trends in soil P concentrations over time and to assess environmental risk.

Soil samples taken soon after manure, bio-solid or other organic by-product application may produce erroneous soil test results for phosphorus. Soil samples taken for the IDPTH should be delayed for 9-12 months after organic amendment applications. The on-site surface or ground water resource concern will determine the appropriate depth of the soil sample taken (Table 2) for comparison to the IDPTH:

- Surface water concerns exist when surface runoff leaves the field(s) from average annual precipitation, rain on snow or frozen ground or irrigation.
- Ground water concerns exist when surface water (from any source) does not leave the field. A high water table, fractured bedrock, poor irrigation water management, cobbles, gravel or coarse-textured soils can contribute to downward movement of water and nutrients.

When both a surface and ground water concern exists, the surface water concern governs NMP development. If neither concern exists, then the NMP is developed based on the IDPTH for the ground water concern to maintain soil quality and long-term sustainability.

Primary Resource Concern	Idaho P Threshold (IDPTH) Soil Sample Depth
Surface Water	0" – 12" ¹
Ground Water	18" – 24" ²

¹ Soil samples taken for development of the IDPTH can be utilized to develop the annual nutrient budget if they meet the criteria in Table 1.

² If environmental considerations have been identified (high water tables, leaching vulnerability, tile drains, fractured bedrock, deep or shallow soils), sampling greater than or less than the prescribed depths may be necessary.

IDPTH concentrations by resource concern are listed in Table 3. Use the primary resource concern identified and site characteristics to determine the appropriate IDPTH for the site.

Nitrogen-based manure applications are allowed on sites where the soil test phosphorus levels are below the IDPTH (Tables 3 and 4). The nitrogen availability of the planned application shall match plant uptake characteristics as closely as possible, taking into consideration the timing of nutrient application(s) in order to minimize leaching and atmospheric losses.

Management activities and technologies shall be used that effectively utilize mineralized nitrogen and minimize nitrogen losses through denitrification and ammonia volatilization.

Primary Resource Concern	Idaho P Threshold (IDPTH) Concentration		
	Olsen	Bray-1	Morgan
Surface Water	40 ppm	60 ppm	6 ppm
Ground Water			
Water < 5 feet	20 ppm	25 ppm	2.5 ppm
Water > 5 feet	30 ppm	45 ppm	4.5 ppm

Phosphorus-based applications are allowed on sites where soil phosphorus levels equal or exceed threshold values.

Soil Test P	P Application Rate¹
< IDPTH (ppm)	Fertilizer Guide or Crop Rotational P uptake
> IDPTH (ppm)	Crop Rotational P uptake

¹ Phosphorus application rate is based on crop P uptake and not on crop P removal.

Where phosphorus-based applications are made, the application rate shall:

- Not exceed the recommended nitrogen application rate for the current crop during the year of application, and
- Not be made on sites considered vulnerable to off-site phosphorus transport unless appropriate conservation practices, best management practices or management activities are used to reduce the vulnerability.

Heavy Metal Monitoring. When sewage sludge (biosolids) is applied, the accumulation of potential pollutants (including arsenic, cadmium, copper, lead, mercury, selenium and zinc) in the soil shall be monitored in accordance with US Code, Reference 40 CFR, Parts 403 and 503 and/or any applicable state and local laws or regulations. Animal waste may also contain heavy metals (e.g., copper or zinc in liquid

wastes originating from hoof care products). The landowner should test for heavy metals if they are concerned or observe problems that may be associated with heavy metal contamination.

Additional Criteria to Protect Air Quality by Reducing Nitrogen and/or Particulate Emissions to the Atmosphere

In areas with an identified or designated nutrient management-related air quality concern, any component(s) of nutrient management (i.e., amount, source, placement, form, timing of application) identified by risk assessment tools as a potential source of atmospheric pollutants shall be adjusted, as necessary, to minimize the loss(es).

When tillage can be performed, surface applications of manure and fertilizer nitrogen formulations that are subject to volatilization on the soil surface (e.g., urea) shall be incorporated into the soil within 24 hours after application.

When manure or organic by-products are applied to grassland, hayland, pasture or minimum-till areas, the rate, form and timing of application(s) shall be managed to minimize volatilization losses.

When liquid forms of manure are applied with irrigation equipment, operators will schedule application during weather conditions that will minimize volatilization losses.

Following incorporation, manure N goes through rapid nitrification with the production of Nitrate-N. If the soil becomes saturated following this period of rapid conversion, significant N loss can occur through denitrification. Application of manure shall be done when the probability of soil saturation is low to minimize this N loss.

Operators will handle and apply poultry litter or other dry types of animal manures when the potential for wind-driven loss is low and there is less potential for transport of particulates into the atmosphere.

Weather and climatic conditions during manure or organic by-product application(s) shall be recorded and maintained in accordance with the operation and maintenance section of this

standard.

Additional Criteria to Improve the Physical, Chemical and Biological Condition of the Soil

Nutrients shall be applied and managed in a manner that maintains or improves the physical, chemical and biological condition of the soil.

All nutrient sources should be used with the total salt load in mind for the existing soil conditions and crop to be grown.

To the extent practicable, nutrients shall not be applied when the potential for soil compaction and rutting is high.

CONSIDERATIONS

Individual conservation practices should be planned as part of a comprehensive conservation plan which addresses all resource concerns on the unit and reaches a Resource Management System (RMS) level of treatment.

When soil test P concentrations approach 75% of the IDPTH, consider developing the nutrient management plan using application rates at crop P uptake or less or consider growing crops that have a greater potential to remove P from the system. When soil test P concentrations are above the IDPTH, P application rates less than crop P uptake should be utilized to reduce the soil phosphorus level.

When monitoring indicates soil test P concentrations are increasing over time, consider reviewing the nutrient management plan and implementation for appropriate changes to reduce the P applied, especially when soil test P is near or above the IDPTH.

Consider varying the amount of fertilizer in different parts of the field to account for differing soil types and conditions, yield potential, fertilizer needs and the potential for leaching and runoff.

Consider applying liquid wastes mixed with irrigation water during the last 1/4 to 1/3 of the irrigation set when using in-place or non-mobile systems to minimize runoff of nutrients.

Consider split applications to provide N at the

time of maximum crop utilization, especially on fall-seeded crops.

Consider routine mineral and nutrient status testing of forages produced from land with long term and/or heavy waste application rates to protect livestock health and productivity.

Consider cover crops whenever possible to utilize and recycle excessive residual N.

Consider delaying field application of animal wastes or other organic by-products if precipitation capable of producing runoff and erosion is forecast within 24 hours of the time of the planned application.

Consider the potential problems from odors and insects associated with the land application of animal wastes especially when applied near or upwind of residences.

Consider sampling the surface layer (0-4 inches) for elevated soil phosphorus or soil acidity when there is permanent vegetation, non-inversion tillage or when animal manure or other organic by-products are broadcast or surface applied and not incorporated.

Consider plant tissue testing. Tissue sampling and testing is encouraged during the growing season to monitor crop nutrient concentrations. Tissue sampling shall be done in accordance with the University of Idaho guidelines.

When planning nutrient applications and tillage operations, encourage soil carbon build-up and minimize the volatilization of nitrogen and the emission of greenhouse gases.

Additional Consideration to Protect Water Quality on Vulnerable Sites

Vulnerable sites are:

- Areas of average annual precipitation greater than 24 inches.
- Coarse textured soils and/or areas with high water tables (perched water less than 24 inches) with average annual precipitation greater than 21 inches or under irrigation.
- Idaho Nitrate Priority Areas and subbasins with impacted surface water (as identified in the Idaho DEQ's "Integrated Report").

Reference the UI Fertilizer Guides (FG) section "Water Quality Considerations" or sections which address N movement in soils. Specific guidance is provided in the FGs for application of N in high precipitation areas or on irrigated crops. Follow the FGs when addressing movement of N in the soil profile.

Utilize nutrient form and nutrient application timing and placement to reduce N and P pollution of ground and surface waters. Special consideration will be given to application of nutrients on sensitive areas: Highly Erodible Lands (HEL), within flood plains, near sensitive water bodies, in areas of ground water contamination within sole source aquifers, wellhead protection areas or within other areas of water quality concern.

Proper nutrient application in combination with other mitigating practices will help reduce potential of transport to gullies, ditches, surface inlets, sinkhole areas, fractured bedrock or wellhead areas. There should be no application of animal waste on sites where runoff is delivered directly to a conveyance channel or receiving water body unless runoff is treated with a conservation buffer or other mitigating practice prior to delivery.

Recommended mitigating practices include:

- Split fall/spring applications utilizing soil temperatures (<50° F), nitrification inhibitors, time release fertilizers or split spring applications of N to provide nutrients at the times of maximum crop uptake.
- Band P near the seed row.
- Incorporate broadcasted nutrients.
- Farm on the contour or cross slope on all non-irrigated fields adjacent to wetlands if nutrient runoff appears to pose a more significant hazard than leaching.
- Utilize fall cover crops whenever possible to immobilize excess residual N and retain for spring crops.
- Use Conservation Cover (327), Residue Management (329, 344, 345 or 346), Conservation Crop Rotation (328), Grassed

Waterway (412), Irrigation Water Management (449), Riparian Forest Buffers (391), Filter Strips (393), Fencing (382), Watering Facility (614), etc., as needed to protect or improve water quality.

PLANS AND SPECIFICATIONS

Plans and specifications shall be in keeping with this standard, and shall describe the requirements for applying the practice to achieve its intended purpose.

The following components shall be included in a nutrient management plan.

- Aerial site photograph or map and a soil map
- Quantification of all nutrient sources
- Current and/or planned plant production sequence or crop rotation
- An IWM plan for fields under irrigation
- Annual soil tests
- Realistic yield goals for the crops in the rotation
- Recommended nutrient rates, timing and method of application and incorporation
- Location of designated sensitive areas or resources and the associated practices or methods planned to protect the area
- Complete nutrient budget for N, P and K for the rotation, and the annual nutrient budget for the current crop

OPERATION AND MAINTENANCE

Nutrient Management Plan Review and Revision. The owner/client is responsible for the safe operation and maintenance of this practice including all equipment.

Nutrient management plans shall be reviewed annually by the producer or his/her representative to determine if significant changes in the operation have occurred that will affect the overall nutrient management plan or upon change in landowner or tenant.

Significant changes may include:

- Increase or decrease in livestock by 10%
- Major changes to waste handling and storage system
- Increase or decrease in application area by 10%
- Change in crop or crop rotation
- Change in irrigation system
- New designation as a sensitive area
- Changes in livestock type
- Changes in feed rations

Significant changes in animal numbers and/or feed management will necessitate additional manure sampling and analyses to establish a revised average nutrient content.

Field Records. The producer will maintain field level records for a minimum of five years; for a period longer than five years if required by other Federal, State or local ordinances; or program or contract requirements.

As applicable, records should include:

- Soil, plant tissue, organic and water test results as collected and recommendations for nutrient application
- Quantities, analyses and sources of nutrients applied
- Approximate dates and methods by which nutrients were applied
- Weather conditions and soil moisture at the time of application; lapsed time to manure incorporation, rainfall or irrigation event
- Crops planted, planting and harvest dates, yields and crop residues removed
- Dates of annual review and person performing the review, and recommendations that resulted from the review
- Any additional information as required by this standard (e.g., site vulnerability, risk assessment, biosolids application records and other appropriate cautions and discussions).

- Irrigation water management evaluations as applicable
- Documentation of the actual rate at which nutrients were applied. When the actual rates used differ from the recommended and planned rates, records will indicate the rationale.

Annual Nutrient Budget. Soil samples used to develop the annual nutrient budget shall meet the criteria in Table 1.

The planned rates of nutrient application, as documented in the nutrient budget, shall be determined based on the following guidance:

- Nitrogen (N), Phosphorus (P) and Potassium (K) application rates shall match the FG recommended rates as closely as possible, or within reasonable limits, except when manure or organic by-products are a source of nutrients. Reasonable limits are defined as 40 lbs-N, 20 lbs-P₂O₅ and 40 lbs-K₂O per acre.
- When the applied fertilizer rate exceeds the reasonable limits defined above, the application must be justified by either a pre-application soil test or an approved tissue test or feed analysis. For over-application of N without justification, a post-harvest rooting depth soil test will be required.
- Potassium shall not be applied in situations in which excess K₂O causes unacceptable nutrient imbalances in crops or forages.
- The planned rates of application of other plant nutrients shall be consistent with the University of Idaho Nutrient Recommendations.
- A starter band of up to 30 lbs of P₂O₅ per acre is allowed under special localized conditions (wet-cold or high P fixing soils) regardless of soil test. When starter fertilizers are used, they shall be applied in accordance with UI recommendations.

Safety. Workers should be protected from and avoid unnecessary contact with chemical fertilizers and organic by-products. Protection should include the use of protective clothing

when working with plant nutrients. Extra caution must be taken when handling ammonia sources of nutrients, or when dealing with organic wastes stored in unventilated enclosures.

Protect fertilizer and organic by-product storage facilities from weather and accidental leakage or spillage. Storage of manure, fertilizers and cleaning of application equipment should be done away from a wellhead.

Calibrate application equipment to ensure uniform distribution of material at planned rates.

Backflow protection devices shall be installed according to Idaho chemigation requirements when using irrigation systems for application or distribution of liquid waste or commercial fertilizer.

The disposal of material generated from cleaning nutrient application equipment should be stored and disposed of properly. Excess material should be collected and stored, or field applied, in an appropriate manner. Excess material should not be applied on areas of high potential risk for runoff and leaching.

The disposal or recycling of nutrient containers should be done according to state and local guidelines or regulations.

REFERENCES

- Follett, RF, DR Keeney, and RM Cruse (eds.) 1991. Managing nitrogen for groundwater quality and farm profitability. SSSA, Madison WI.
- Idaho ONEPLAN.
<http://www.oneplan.org/index.shtml>
- Idaho Water Quality Technical Note 4. 2005. Nitrogen Transport Risk Assessment.
- Idaho Water Quality Technical Note 5. 2005. Phosphorus Transport Risk Assessment: A Phosphorus Assessment Tool.
- Sharpley, AN, T Daniel, T Sims, J Lemunyon, R Stevens, and R Parry. 2003. Agricultural phosphorus and eutrophication (second edition). USDA-Agricultural Research

ID-590-10

Service, ARS-149.

APPENDIX C

NRCS Conservation Practice Standard Code 360 - Closure of Waste Impoundments

**NATURAL RESOURCES CONSERVATION SERVICE
CONSERVATION PRACTICE STANDARD**

CLOSURE OF WASTE IMPOUNDMENTS

(No.)

CODE 360

DEFINITION

The closure of waste impoundments (treatment lagoons and liquid storage facilities), that are no longer used for their intended purpose, in an environmentally safe manner.

PURPOSE

- Protect the quality of surface water and groundwater resources
- Eliminate a safety hazard for humans and livestock
- Safeguard the public health

CONDITIONS WHERE PRACTICE APPLIES

This practice applies to agricultural waste impoundments that are no longer needed as a part of a waste management system and are to be permanently closed or converted.

The structure must be constructed to meet NRCS standards or show structural integrity if these impoundments are to be converted to fresh water storage ponds. Investigations for structural integrity must be conducted as specified in the National Engineering Manual (NEM) 501.23.

CRITERIA

General Criteria Applicable to All Purposes

The closure shall comply with all federal, state and local laws, rules and regulations including pollutant discharge elimination system requirements.

All structures used to convey waste to waste impoundments or to provide drainage from the impoundment area shall be removed and

replaced with compacted earth material or otherwise rendered unable to convey waste.

Liquid and slurry wastes shall be agitated and pumped to the extent conventional pumping will allow. Clean water shall be added as necessary to facilitate the agitation and pumping. The wastewater shall be utilized in accordance with Waste Utilization (633), as well as Nutrient Management (590). The sludge remaining on the bottom and sides of the waste treatment lagoon or waste storage facility may remain in place if it will not pose a threat to the environment. If leaving the sludge in place would pose a threat, it shall be removed to the fullest extent practical and utilized in accordance with Waste Utilization (633), as well as Nutrient Management (590).

Land Reclamation. Impoundments with embankments may be breached so that they will no longer impound water, and excavated impoundments may be backfilled so that these areas may be reclaimed for other uses. Waste impoundments that have water impounded against the embankment are considered embankment structures if the depth of water is three feet or more above natural ground.

(1) Embankment Impoundments. Waste shall be removed from the site before the embankment is breached. The slopes and bottom of the breach shall be stable for the soil material involved; however, the side slopes shall be no steeper than three horizontal to one vertical (3:1).

(2) Excavated Impoundments. The backfill height shall exceed the design finished grade by 5 percent to allow for settlement. The top one foot of the backfill shall be constructed of soil with greater than 20% clay content and mounded to shed rainfall

runoff. Incorporate available topsoil where feasible to aid establishment of vegetation.

Closed waste storage structures shall be demolished or disassembled or otherwise altered to such an extent that no water can be impounded. Disassembled materials such as pieces of metal shall be temporarily stored until their final disposition in such a manner that they do not pose a hazard to animals or humans.

Demolished materials shall be buried on-site, as allowed by local regulation of landfills or moved off-site to locations designated by state or local officials. If buried on-site, the materials are to be covered with soil to a settled depth of one foot, and the backfill be sufficiently mounded such that runoff will be diverted from the site after the backfill settles.

Conversion to Fresh Water Storage. The converted impoundment shall meet the requirements as set forth in the appropriate NRCS practice standard for the intended purpose.

Safety. When sludge is not removed from a waste impoundment that is being converted to fresh water storage, the impoundment shall not be used for fish production, swimming or livestock watering until water quality is adequate for these purposes. Precautions such as fencing and warning signs shall be used to ensure that the facility is not used for purposes incompatible with the current quality of water.

Personnel shall not enter an enclosed waste impoundment without breathing apparatus or taking other appropriate measures.

Protection. All disturbed areas shall be re-vegetated or other suitable measures used to control erosion and restore the esthetic value of the site. Sites not suitable for re-vegetation through normal cropping practices shall be vegetated using Critical Area Planting (342).

Measures shall be taken during construction to minimize site erosion and pollution of downstream water resources. This may include such items as silt fences, hay bale barriers, temporary vegetation and mulching.

CONSIDERATIONS

Reduce pumping effort to empty waste impoundments where the surface is covered

by a dense mat of floating vegetation by first applying herbicide to the vegetation and then burning the residue. Appropriate permits must be obtained before burning.

Minimize the impact of odors associated with emptying and land applying wastewater and sludge from a waste impoundment by using an incorporation application method at a time when the humidity is low, winds are calm and wind direction is away from populated areas.

Soil to fill excavated ponds should not come from important farmlands (prime, statewide, local and/or unique).

Breeched embankments may detract from the overall esthetics of the operation. Embankments should be removed and the site returned to its original grade.

Keep sludge left in place covered with water to prevent its aerobic decomposition with the potential release of nutrients to surface and ground water.

Disassembled structural facilities may be suitable for assembly at another site. Care should be taken during closure to minimize damage to the pieces of the facility, particularly coatings that prevent corrosion of metal pieces.

PLANS AND SPECIFICATIONS

Plans and specifications for closure of abandoned waste treatment lagoons and waste storage facilities shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose. The plans and specifications shall also be consistent with the requirements of that standard.

OPERATION AND MAINTENANCE

The proper closure of a waste treatment lagoon or waste storage facility should require little or no operation and maintenance; however, if it is converted to another use, such as a fresh water facility, operation and maintenance shall be in accordance with the needs as set forth in the appropriate NRCS conservation practice standard for the intended purpose.

APPENDIX D

DEQ Final §401 Water Quality Certification and Antidegradation Review



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

December 2, 2011

Mr. Michael Bussell, Director
USEPA, Region 10
Office of Water and Watersheds
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Subject: Final §401 Water Quality Certification and Antidegradation Review for the
Proposed Final NPDES Concentrated Animal Feeding Operations (CAFOs)
General Permit IDG010000

Dear Mr. Bussell:

The Idaho Department of Environmental Quality (DEQ) has reviewed the proposed final NPDES CAFOs General Permit received on 31 October 2011, and has prepared the enclosed Final §401 water quality certification and antidegradation evaluation of the permit.

If you have any questions or comments concerning the enclosed materials, please contact Miranda Adams at 208-373-0574 or via email at miranda.adams@deq.idaho.gov.

Sincerely,

A handwritten signature in blue ink that reads "Barry N. Burnell".

Barry N. Burnell
Water Quality Division Administrator

BNB:MA:ls

Enclosures

c: Nicholas Peak, EPA Idaho Operations Office, peak.nicholas@epa.gov
Michael McIntyre, DEQ Surface Water Manager



Idaho Department of Environmental Quality **FINAL §401 Water Quality Certification**

December 1, 2011

NPDES Permit Number(s): IDG010000 – Idaho Concentrated Animal Feeding Operations (CAFOs) NPDES General Permit

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC Section 1341 (a)(1), and Idaho Code §§ 39-101 et.seq., and 39-3601 et.seq., the Idaho Department of Environmental Quality (DEQ) has authority to review National Pollutant Discharge Elimination System (NDPES) permits and issue water quality certification decisions.

Based upon its review of the above-referenced permit and associated fact sheet, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit, along with the conditions set forth in this water quality certification, then there is reasonable assurance the discharge will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, including the Idaho Water Quality Standards (WQS) (IDAPA 58.01.02) and other appropriate water quality requirements of State law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations or permits, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

CONDITIONS THAT ARE NECESSARY TO ASSURE COMPLIANCE WITH WATER QUALITY STANDARDS OR OTHER APPROPRIATE WATER QUALITY REQUIREMENTS OF STATE LAW

Discharges to Impaired Waters

EPA shall seek input from the appropriate DEQ regional office in determining whether a new discharger or new source proposing to discharge to an impaired water body will contribute to the existing impairment and whether additional limits or controls are necessary for the discharger to comply with the impaired waters and TMDL provisions in Idaho water quality standards (IDAPA 58.01.02.055).

Discharges to High Quality Waters

If, based upon DEQ's review of the NOI, DEQ notifies EPA that the CAFO will discharge to a high quality water afforded tier 2 antidegradation protection, EPA shall seek input from the appropriate DEQ regional office in determining whether additional

analyses, control measures, or other permit conditions are necessary to ensure compliance with DEQ's tier 2 antidegradation provisions (IDAPA 58.01.02.051.02).

Discharges to Outstanding Resource Waters

Currently, no outstanding resource waters (ORW's) have been designated in Idaho, but it is possible that such a designation may occur during the life of the CAFO GP; therefore DEQ is requiring as a condition of this certification, that EPA shall issue an individual NPDES permit to applicants proposing to discharge to an ORW.

Reporting of Discharges Containing Hazardous Materials or Petroleum Products

Any spill of hazardous materials must be immediately reported to the appropriate DEQ regional office (Table 1). Spills of petroleum products that exceed 25 gallons or that cause a visible sheen on nearby surface waters should be reported to DEQ within 24-hours. Petroleum product spills of less than 25 gallons or spills that do not cause a sheen on nearby surface waters shall only be reported to DEQ if clean-up cannot be accomplished within 24-hours (IDAPA 58.01.02.850, 58.01.02.851, 58.01.02.852).

Table 1. DEQ Regional Office contact information for reporting spills

Regional Office	Phone #	Regional Office	Phone #
Boise	(208) 373-0550	Lewiston	(208) 799-4370
Coeur d'Alene	(208) 769-1422	Pocatello	(208) 236-6160
Idaho Falls	(208) 528-2650	Twin Falls	(208) 736-2190

Outside of regular business hours, qualified spills should be reported to the State Communications Center (1-800-632-8000 or 208-846-7610).

ANTIDEGRADATION

The CAFO general permit (GP) authorizes precipitation-related agricultural storm water discharges throughout the state of Idaho, provided that the production area is designed, constructed, operated, and maintained to contain all manure, litter, process wastewater, runoff and direct precipitation from the 25-year, 24-hour storm event. As such, any surface waters subject to the jurisdiction of the Clean Water Act within Idaho may be affected by discharges from activities covered under this permit. Therefore, DEQ has evaluated compliance of the CAFO GP with Idaho's antidegradation policy. A detailed analysis regarding compliance with the antidegradation policy is set forth in the attached Antidegradation Review. The conclusions of that analysis are outlined in the following sections of this certification.

The effluent limitations and standards set forth in the CAFO GP, coupled with the conditions of this certification, ensure the State's numeric and narrative criteria will be met. The numeric and narrative criteria are set at levels which protect and maintain designated and existing beneficial uses. Therefore, the limits in the CAFO general permit, including the certification conditions, protect and maintain the applicable designated and existing beneficial uses that may occur in water bodies throughout Idaho.

The activities authorized under the CAFO GP are not expected to result in degradation for the following reasons: 1) only precipitation-related agricultural storm water discharges are permitted, no dry weather discharges are permitted; 2) in addition to a Notice of Intent (NOI), the permittee is required to submit a Nutrient Management Plan (NMP), developed by a certified specialist, to EPA for approval when applying for coverage under this permit; 3) additional best management practices (BMPs) are required to prevent discharges from land application areas, the CAFO GP does not allow for liquid applications during wet weather conditions; 4) the CAFO GP requires the closure of waste impoundments to be conducted in an environmentally-sound manner; and 5) in the event a CAFO discharges to a high quality water, EPA must seek input from DEQ regarding the individual facility to ensure compliance with tier 2 antidegradation provisions.

In summary, the CAFO GP complies with Idaho's antidegradation policy because its requirements, coupled with the conditions of this certification, ensure existing and designated beneficial uses are maintained and protected, and there will be no significant degradation of high quality waters.

OTHER CONDITIONS

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities, including without limitation, any modifications of the permit to reflect new or modified TMDLs, wasteload allocations, site specific criteria, variances, or other new information, shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to the Clean Water Act, Section 401.

RIGHT TO APPEAL FINAL CERTIFICATION

The final Section 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5), and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, within 35 days of the date of the final certification.

Questions regarding the actions taken in this certification should be directed to Miranda Adams, State Office, at 208-373-0574 or miranda.adams@deq.idaho.gov.



Barry N. Burnell
Administrator
DEQ Water Quality Division

ANTIDEGRADATION REVIEW
NPDES Permit # IDG010000
Idaho Concentrated Animal Feeding Operations (CAFOs) General Permit

Idaho Department of Environmental Quality
December 1, 2011

Antidegradation Overview

In March 2011, Idaho incorporated new provisions addressing antidegradation implementation in the Idaho Code. The new antidegradation provisions are in Idaho Code § 39-3603. At the same time, Idaho adopted antidegradation implementation procedures in the Idaho water quality standards (WQS). The Idaho Department of Environmental Quality (DEQ) submitted the antidegradation implementation procedures to the U.S. Environmental Protection Agency (EPA) for approval on April 15, 2011. On August 18, 2011, EPA approved the implementation procedures.

Idaho's antidegradation policy (IDAPA 58.01.02.051) requires that existing uses of all waters in the state be maintained and protected (Tier 1 protection). The Department (DEQ) presumes most waters in the state will support cold water aquatic life and primary and secondary contact recreation beneficial uses; therefore waters that have not yet been designated shall be protected for these presumed uses and a Tier 1 level of protection will be given (IDAPA 58.01.02.101.01). In addition, where the quality of water is better than that required to maintain beneficial uses, then DEQ must assure that no degradation will occur unless, after allowing an opportunity for public comment and intergovernmental coordination, degradation is deemed to be necessary to accommodate important economic or social development (Tier 2 protection) (IDAPA 58.01.02.51.02). The third level of protection applies to water bodies that have been designated outstanding resource waters (ORW's) and requires activities to not cause a lowering of water quality (Tier 3 protection) (IDAPA 58.01.02.051.03; 58.01.02.052.07).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (Idaho Code § 39-3603(2)(b)(i)). Any water body not fully supporting its beneficial uses will be provided Tier 1 protection for that use, unless specific circumstances warranting Tier 2 protection are met (Idaho Code § 39-3603(2)(b)(iii)). The most recent federally approved Integrated Report (IR) and supporting data are used to determine support status and the tier of protection (Idaho Code § 39-3603(2)(b)).

Pollutants of Concern

The following pollutants of concern are associated with discharges from CAFOs: nutrients as Total Phosphorus (TP), Total Nitrogen (N), Nitrate Nitrogen, Ammonia Nitrogen; total suspended solids (TSS); five-day biological oxygen demand (BOD₅); pH; *E. coli* and temperature. Under the CAFO GP, all discharges must be sampled and analyzed for these pollutants in accordance with EPA approved methods for water analysis listed in 40 CFR Part 136. [40 CFR 122.41]

Receiving Water Body Level of Protection

The CAFO GP provides coverage to facilities throughout the entire State of Idaho. Because of the statewide applicability, all of the jurisdictional waters within Idaho could potentially receive discharges either directly or indirectly from facilities covered under the CAFO GP. As previously mentioned, DEQ uses a water body by water body approach when determining the level of antidegradation protection a water body will receive.

All waters in Idaho that receive precipitation-related storm water discharges from facilities authorized in the CAFO GP will receive, at minimum, Tier 1 antidegradation protection because Idaho's antidegradation policy applies to all state waters. Water bodies that fully support their aquatic life or recreational uses are considered antidegradation protection. Although Idaho does not currently have any outstanding resource waters (ORWs) designated, it is possible that a water body could be designated as an ORW during the life of this permit. Because of this potential, this antidegradation review will also assess whether the permit complies with the outstanding resource water requirements of Idaho's antidegradation policy.

Protection and Maintenance of Existing Uses (Tier 1 Protection)

As noted above, a Tier 1 review is performed for all new or reissued permits or licenses, applies to all waters subject to the jurisdiction of the CWA, and requires a showing that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. In order to protect and maintain designated and existing beneficial uses, a permitted discharge must comply with narrative and numeric criteria of the Idaho WQS, as well as other provisions of the WQS such as Section 055, which addresses water quality limited waters.

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. A central purpose of TMDLs is to establish wasteload allocations for point source discharges, which are set at levels designed to help restore the water body to a condition that supports existing and designated beneficial uses. Discharge permits must contain limitations that are consistent with wasteload allocations in the approved TMDL. A permit with effluent limitations consistent with TMDL wasteload allocations will provide the level of water quality necessary to support existing and designated uses and therefore satisfies Tier 1 antidegradation requirements.

The limitations and requirements contained in the CAFO GP will ensure compliance with the narrative and numeric criteria in the Idaho WQS. In addition to the limitations and requirements currently in the permit, the permit provides for an additional opportunity for comments to further ensure compliance with WQS. In addition to submitting a Notice of Intent (NOI) to EPA, Idaho State Department of Agriculture (ISDA), and Idaho State Department of Environmental Quality (DEQ), all applicants will be required to submit a Nutrient Management Plan (NMP) to EPA for approval. This plan must be developed by a certified specialist and shall consider all potential sources of nutrients. The NOI, NMP, and draft terms of the NMP to be incorporated into the permit, will be made available for a thirty (30) day public comment, providing interested parties an opportunity to further address potential additional impacts to waters of the state. Additionally, as set forth in the CAFO GP, EPA shall seek input from the appropriate DEQ regional office in determining whether a new discharger or new source proposing to discharge to an impaired

water body will contribute to the existing impairment and whether additional limits or controls are necessary for the discharger to comply with the impaired waters and TMDL provisions in Idaho WQS (IDAPA 58.01.02.055). Therefore, the permit ensures compliance with any applicable WLA in any applicable TMDL.

Protection of High-Quality Waters (Tier 2 Protection)

As indicated previously, water bodies that fully support their beneficial uses will be provided Tier 2 protection. As such, the quality of these waters must be maintained and protected, unless it is deemed necessary to accommodate important economic or social development. For a reissued permit or license, the effect on water quality is determined by looking at the difference in water quality that would result from the activity or discharge as authorized in the current permit and the water quality that would result from the activity or discharge as proposed in the reissued permit or license (IDAPA 58.01.02.052.04.a). For a new permit or license, the effect on water quality is determined by reviewing the difference between the existing receiving water quality and the water quality that would result from the activity or discharge as proposed in the new permit or license (IDAPA 58.01.02.052.04.a).

DEQ believes the new CAFO GP is as stringent, or more stringent, than the existing CAFO GP. Therefore, existing activities or discharges currently covered by the existing CAFO GP should not cause degradation, as long as the activity or discharge is not expanding.

DEQ also believes there likely will be no significant degradation as a result of new or expanded activities seeking coverage under the CAFO GP. The new CAFO GP only authorizes precipitation-related storm water discharges from facilities that are designed, constructed, operated, and maintained to contain all manure, litter, process wastewater, and the runoff and direct precipitation from the 25-year, 24-hour flood event. The CAFO GP requires the submittal and EPA approval of a Nutrient Monitoring Plan (NMP). The NMP will must be developed in accordance with the Idaho NRCS, conservation Practice Standard Code 590 contained in *Natural Resource Conservation Service Field Office Technical Guide*. EPA will develop site-specific permit terms based on the information provided in the NMP, input from the appropriate DEQ regional office, and pertinent comments received during the public notice period. The NMP will specifically identify and describe practices that will be implemented to ensure compliance with effluent limitations and additional requirements of the permit. The permittee will be required to comply with the site specific permit terms as established by EPA.

The proposed final CAFO GP also requires the implementation of additional best management practices (BMP's) to prevent discharges and runoff related to land application activities, including a provision which prohibits liquid land applications during the wet weather season. Discharges from land application areas are only permitted as a result of precipitation events; the CAFO GP prohibits discharges from land application areas during dry weather conditions. The NMP will also address land application rates in either a numeric or a narrative approach. Land application rates will depend on site-specific criteria and will not exceed the crops ability to uptake the nutrients. Furthermore, soil sampling in areas receiving nutrient additions (land applications) will be taken annually to develop a nutrient budget (IDAPA 02.04.14 and IDAPA 02.04.15).

In the event that precipitation-related storm water discharges do occur, the permittee will be required to take discharge samples, which will be analyzed in accordance with EPA approved methods, for all of the pollutants of concern. Monitoring results will be retained on-site and be made available to EPA.

To further ensure the prevention of surface and ground water contamination, permitted facilities seeking termination of coverage under the CAFO GP will be required to adhere to environmentally-sound procedures, consistent with NRCS Practice Standard Code 360, for closing the facility.

In sum, the effluent limitations and associated requirements contained in the CAFO GP, including EPA-approval of a NMP, are designed to ensure compliance with the narrative and numeric criteria in the WQS and are more protective than the previous permit. Therefore, DEQ has determined that as long as CAFO facilities operate consistent with the terms of the NPDES permit and 401 Certification, there is reasonable assurance that the permit will protect and maintain existing and designated beneficial uses and there will be no degradation or adverse change in water quality.

Protection of Outstanding Resource Waters (Tier 3 Protection)

Idaho's antidegradation policy requires that the quality of outstanding resource waters be maintained and protected from the impacts of point source discharges. No water bodies in Idaho have been designated as outstanding resource waters to date; however, it is possible that waters may become designated during the term of the CAFO GP. Because of this possibility, DEQ has evaluated whether the proposed final CAFO GP complies with the ORW antidegradation provision.

As a condition of this certification, DEQ is requiring any applicant proposing to discharge to an ORW to obtain an individual NPDES permit from EPA. This requirement complies with Idaho's antidegradation provisions concerning ORWs.