

# STATE OF MINNESOTA GENERAL ANIMAL FEEDLOT NPDES PERMIT

Authorization to Construct and Operate a Concentrated Animal Feeding Operation  
Under the National Pollutant Discharge Elimination System Permit (NPDES)  
MNG440000



STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY

**ISSUANCE DATE: February 1, 2016**

**EXPIRATION DATE: January 31, 2021**

In compliance with the provisions of the Clean Water Act, as amended (U.S.C. 1251 et. seq., hereafter the "Act"), 40 CFR pts. 122, 123, 412, as amended, et. seq., Minn. Stat. ch. 115 and 116, as amended, and Minn. R. ch. 7001, 7009, 7020, 7053, 7060, and 7090, owners and operators of Concentrated Animal Feeding Operations (CAFOs) meeting the criteria in 40 CFR § 122.23(b)(4) in the state of Minnesota that have not been identified by the Minnesota Pollution Control Agency (MPCA) as a priority pursuant to Part 13.2 of this Permit are authorized to construct and operate their livestock and poultry facilities in accordance with the conditions set forth in this general NPDES Permit ("Permit").

This Permit covers owners and operators of facilities who apply for an NPDES Permit and are notified by the MPCA of coverage under the Permit. This Permit includes all state requirements for CAFOs and animal feedlots and/or manure storage areas capable of holding 1,000 animal units or more and thus satisfies the requirement to obtain coverage under a State Disposal System permit. A copy of this Permit must be kept at the Facility or owner's business address at all times.

This Permit shall become effective on the issuance date identified above, and supersedes any permit under which this facility previously received coverage.

This Permit expires at midnight on the expiration date identified above.

Signature: \_\_\_\_\_

Gaylen F. Reetz  
Director  
Watershed Division

*on behalf of the MPCA*

## Table of Contents

Part	page
<b>1. Permit Coverage</b> .....	<b>4</b>
<b>2. Facility Plans</b> .....	<b>4</b>
2.1. Changes required by the MCPA.....	4
2.2. Annual Review and Updates to the Incorporated Plans.....	4
2.3. Updates and Modifications to the MMP .....	5
<b>3. Facility Construction</b> .....	<b>7</b>
3.1. Construction Sequence.....	7
3.2. Liquid Manure Storage Area Construction .....	7
3.3. Permanent Manure Stockpile Construction Requirements .....	9
3.4. Poultry Barn Floor Construction Requirements .....	9
3.5. Feed Storage Area Pad and Runoff Controls Construction.....	9
3.6. Installation of Groundwater Monitoring System .....	11
3.7. Stormwater Requirements During Construction.....	11
<b>4. Land Application and Nutrient Management</b> .....	<b>11</b>
4.1. Manure Nutrient Testing.....	11
4.2. Manure Application Equipment .....	12
4.3. Manure Ownership.....	12
4.4. Requirements When Manure Ownership is Transferred .....	12
4.5. Requirements When Manure Ownership is Retained (non-transferred).....	12
<b>5. Facility Operation and Maintenance</b> .....	<b>19</b>
5.1. Conditions for All Manure Storage Areas.....	19
5.2. Liquid Manure Storage Area (LMSA) Requirements.....	19
5.3. Solid Manure Stockpile Requirements .....	20
5.4. Composting of Manure.....	21
5.5. Poultry Barn Floor Requirements.....	21
5.6. Feed Storage Areas.....	21
5.7. Groundwater Monitoring Requirements.....	23
5.8. Animal Mortalities .....	23
5.9. Ambient Air Quality Standard Exemption for Removal of Manure.....	23
<b>6. Required Inspections and Corrective Actions</b> .....	<b>24</b>
6.1. Inspection Frequency .....	24
6.2. LMSA Inspections .....	24
6.3. Solid Manure Storage Area Inspections .....	24
6.4. VIB Inspections .....	24
6.5. Other Facility Components.....	25
6.6. Correction of Deficiencies .....	25
<b>7. Closure</b> .....	<b>25</b>
7.1. Temporary Closure .....	25
7.2. Permanent Closure.....	26
<b>8. Reporting Requirements</b> .....	<b>28</b>
8.1. Discharge, Spill, and Overflow Reporting Requirements.....	28
8.2. Annual Reporting.....	28
8.3. Permanent Facility Closure Report.....	30
8.4. Anaerobic Digester Bypass Report.....	30
8.5. Report Retention.....	30

<b>9. Recordkeeping Requirements .....</b>	<b>30</b>
9.1. Recordkeeping Requirements .....	31
<b>10. Effluent Limitations and Discharges .....</b>	<b>34</b>
10.1. All Discharges. ....	34
10.2. Production Area Discharges to Surface Waters.....	34
10.3. Land Application Area Discharges to Surface Waters. ....	35
10.4. Subsurface Discharges.....	35
10.5. Animal Access Restrictions .....	35
<b>11. Permit Modification .....</b>	<b>35</b>
11.1. Application Submittal .....	36
11.2. Commencement of Modification .....	36
11.3. Permit Modification by MPCA .....	36
11.4. Transfer of Ownership or Control.....	36
11.5. Name Changes.....	36
<b>12. Continued Permit Coverage .....</b>	<b>36</b>
12.1. Continued operation under expired permit .....	36
<b>13. General Conditions .....</b>	<b>37</b>
13.1. Submittals to MPCA.....	37
13.2. Permit Eligibility Limitations. ....	38
13.3. Request to Terminate Permit Coverage .....	38
13.4. General Conditions.....	38
<b>Appendix A .....</b>	<b>43</b>
Definitions .....	43

## 1. Permit Coverage

Upon the date of receiving notification of coverage under this Permit from the MPCA, the Permittee is authorized to construct and operate the facility according to the submitted and approved permit application and in compliance with the requirements set forth in this Permit, all requirements of Minn. R. ch. 7020, and any other applicable state and federal rules and regulations. No condition of this Permit shall release the Permittee from any responsibility or requirements under other federal, state/tribal, or local statutes, rules, or regulations.

## 2. Facility Plans

The following plans developed by the Permittee in accordance with Minn. R. 7020.0505, and 40 CFR pts. 122 and 412, and approved by the MPCA, are an enforceable part of this Permit. If any approved plans conflict with Minn. R. ch. 7020, 40 CFR pts. 122 and 412, or terms of this Permit, the more stringent condition shall apply. The Permittee shall operate the facility in accordance with the approved plans.

- a) Emergency Response Plan.
- b) Manure and Nutrient Management Plan (MMP).
- c) Design Plans and Specifications – Including any proposed design plans and specifications submitted with the current application for permit coverage and any design plans and specifications, and/or any amendments, for any existing manure storage area that has been previously approved by the MPCA, but are not a required submittal with the current application for permit coverage.
- d) Operation and Maintenance Plan as described in the permit application document.
- e) Air Emissions Plan as described in the permit application document.
- f) Groundwater Monitoring Plan, if required.
- g) Animal Mortality Plan as described in the permit application document.

### 2.1. Changes required by the MPCA

If, after receiving coverage under this Permit, the MPCA determines that one or more of the plans listed above no longer meet the requirements of the permit and rules, the Permittee shall submit an amended plan within 45 days of being notified by the MPCA. Upon receipt of MPCA approval, the amended plan(s) shall become an enforceable part of this Permit. The Permittee shall comply with the most recently MPCA-approved plan(s).

### 2.2. Annual Review and Updates to the Incorporated Plans

The Permittee shall annually review the plans identified above to verify the accuracy of the information contained within the approved plans. For all plans except the MMP (addressed in Part 2.3 below), if a change to the plan is required following the annual review, the Permittee shall submit the proposed changes to the MPCA for review and approval.

The Permittee shall not implement the proposed changes to the plans until approved by the MPCA. Once approved by the MPCA, the updated plans are incorporated into this Permit and will become an enforceable part of this Permit

Changes to the plans may be considered a modification according to Part 11 of this Permit, and require resubmittal of a permit application for coverage under this Permit.

### **2.3. Updates and Modifications to the MMP**

The approved MMP includes a field specific plan for the first cropping year of permit coverage. In addition, the approved MMP includes methodology that identifies how the total plant-available nitrogen and phosphorus rates of application will be determined and also how any field-specific conditions, crop specific nutrient recommendations, and timing and method of manure applications will influence the rate of application for the term of this Permit.

#### **2.3.1. Annual Updates.**

The Permittee shall annually update the approved MMP to ensure that it meets all requirements in Minn. R. 7020.2225, subp. 4, 40 CFR pts. 122.42, 412.4, and 412.37, and this Permit. The annual review and update shall include information for each field where manure will be applied during the following growing season. All information must meet applicable standards in Minn. R. 7020.2225 and 40 CFR pts. 122.42, 412.4, and 412.37. The information that must be obtained to support these determinations includes the following:

- a) Manure sources and amounts;
- b) Manure nutrient content;
- c) Methods of application;
- d) Fields used for application;
- e) Crop rotations;
- f) Expected crop yields;
- g) Soil test results;
- h) Manure storage practices;
- i) Commercial nitrogen and phosphorus fertilizer application; and
- j) Other management changes which affect the available nutrient amounts, crop nutrient needs, setbacks, or production area operation and maintenance.

Any changes made to the submitted first year planned application rates or subsequent crop year planned application rates must be consistent with the MMP's methodology, or the MMP must be modified in accordance with item 2.3.2 below.

### 2.3.2. MMP Modifications.

Annual updates to the MMP do not require a modification of coverage under this Permit provided the updates are consistent with the methodology of the approved MMP. However, the following changes to the MMP will require the owner to submit a new application for a modification to the facility's coverage under this Permit, in accordance with item 2.3.4 below:

- a) Changes to the methodology portion of the MMP that will result in an increase to the maximum field-specific annual rates for nitrogen and phosphorus derived from all sources for each crop;
- b) The addition of any crop, and its corresponding rates of application for nitrogen and phosphorus, not included in the methodology portion of the MMP;
- c) The addition of application methods not accounted for in the methodology portion of the MMP;
- d) Changes in procedures for handling, storage, or treatment of manure that affects rates of application;
- e) The addition of new acreage to the MMP; and
- f) Conservation practice changes that could increase the likelihood of nitrogen and phosphorus transport from the field, as required by 40 CFR pt. 122.42(e)(6).

### 2.3.3. Changes Required by the MPCA

If land application practices under the MPCA-approved MMP are found to cause pollution of waters, the MPCA may require revisions to the MMP to address any causative factors that led to the pollution in accordance with Minn. R. 7020.2225, subp. 1, item A(2), and subp. 4. The Permittee shall submit a revised MMP that addresses the required revisions upon MPCA request and shall follow those additional management practices as described in the revised MMP once approved by the MPCA.

### 2.3.4. Modification Requirements

If the proposed revision to the MMP requires a modification of coverage under this Permit, the Permittee must submit, on an MPCA standardized form, the MMP revisions to the MPCA for review and approval in accordance with Part 11 of this Permit.

#### 2.3.4.1. *Public Notification of MMP modifications*

Except for the addition of new fields to the MMP where the acreage is listed on an approved MMP for any other NPDES permit holder, the modifications identified in items 2.3.2 require a 30 day public notice period, as required by 40 CFR pt. 122.42(e)(6).

#### 2.3.4.2. *Approval of MMP modifications*

The Permittee shall not implement the proposed changes until the Permittee obtains approval from the MPCA. Upon approval of the modified MMP by the MPCA, the plan becomes an enforceable part of this Permit.

### 3. Facility Construction

#### 3.1. Construction Sequence

The Permittee shall complete construction of areas used for the handling or storage of manure/process wastewater that are necessary to comply with the effluent limitations of this permit prior to the commencement of operation of the source of the manure/process wastewater. The Permittee may construct manure/process wastewater generation and storage facilities concurrently but shall not operate/stock the manure/process wastewater generating facility prior to completion of construction of the manure storage area or process wastewater handling or storage facility.

The Permittee is not required to complete construction of all proposed manure/process wastewater handling or storage areas before operating/stocking any proposed manure/process wastewater generation source but shall complete construction of those handling or storage areas directly associated with the generation source that the Permittee desires to operate/stock.

##### 3.1.1. Liquid Manure Storage Areas (LMSA).

For liquid manure storage areas (LMSA), the Permittee shall complete construction of any LMSA required to comply with the storage volume requirements of Minn. R. 7020.2100, subp. 3, item A (nine months of storage) prior to increasing the manure or process wastewater generation of the facility.

##### 3.1.1.1. *Commencement of operation*

The Permittee may commence operation of a LMSA prior to submittal of the post-construction design report required in item 3.2.4. However, the MPCA may require removal of any waste within the LMSA if the post-construction design report indicates the LMSA does not conform to the approved design plans and specifications.

#### 3.2. Liquid Manure Storage Area Construction

The Permittee shall construct the LMSA according to Minn. R. 7020.2100, this Permit, and the design plans and specifications submitted with the permit application and approved by the MPCA.

##### 3.2.1. Construction Notification.

The Permittee shall notify the MPCA staff via telephone or electronic mail, in accordance with Part 13.1 of this Permit, so that on-site inspections may be performed at the discretion of the MPCA staff. This notification shall be done at **least three (3) business days** prior to beginning each of the following construction activities:

- a) Start of construction of each proposed LMSA (prior to earth moving activities);
- b) For below-grade concrete pits, prior to backfilling the walls of the pit; and
- c) Completion of construction of each LMSA.

### 3.2.2. Construction Inspection by Design Engineer.

The Permittee shall ensure that inspections to assess the conformance to the design plans are performed during construction in accordance with Minn. R. 7020.2100, subp. 6. The results of the inspection shall be recorded on the Construction Inspection Form(s) available on the MPCA website at: <http://www.pca.state.mn.us>.

Construction inspections are not required for those LMSAs that qualify for the exemption afforded in Minn. R. 7020.2100 subp. 1, D., or those LMSAs that are constructed entirely of concrete with a volume of less than 20,000 gallons.

### 3.2.3. Construction Certification by Contractor.

The Permittee shall ensure that, as required in Minn. R. 7020.2100, subp. 6, the contractor responsible for installation of the LMSA(s) completes the Contractor Certification portion of the Construction Inspection Form(s) (available on the MPCA website at: <http://www.pca.state.mn.us>) to certify that the structure(s) was/were constructed in accordance with the approved plans and specifications.

A contractor certification is not required for those LMSAs that qualify for the exemption afforded in Minn. R. 7020.2100, subp. 1, D., or those LMSAs that are constructed entirely of concrete with a volume of less than 20,000 gallons.

### 3.2.4. Post-construction Design Report.

The Permittee shall submit a construction report to the MPCA **within 60 days** of completion of the LMSA. The report is to be prepared and signed by the design engineer and shall contain the following:

- a) An assessment by the design engineer of whether the completed LMSA conforms to the design plans and specifications approved by the MPCA;
- b) The completed construction inspection form required in item 3.2.2;
- c) The completed contractor certification form required in item 3.2.3; and
- d) As-built plans that contain, in detail, the final construction plans and specifications for the LMSA(s), as well as details of any changes made during construction to the original MPCA approved plans and specifications.

### 3.2.5. Anaerobic Digester Start-up.

**At least 30 days prior** to the start-up of an anaerobic digester, the Permittee shall notify the MPCA, in accordance with Part 13.1 of this Permit, of the intent to commence operation of the digester. The Permittee shall comply with the start-up plan included with the approved plans and specifications for the digester.



### 3.3. Permanent Manure Stockpile Construction Requirements

The Permittee shall construct the permanent stockpile area according to Minn. R. 7020.2125, this Permit, and any design plans and specifications submitted with the permit application and approved by the MPCA.

#### 3.3.1. Liner Construction.

The liner (pad) of the permanent manure stockpile site must be constructed of one of the following types of materials:

- a) Two feet of soil categorized by Natural Resources Conservation Service (NRCS) practice standard 313 as group III or IV (20 to 100 percent passing the #200 sieve and a plasticity index of 11 or greater). Soils outside this range require approval from the MPCA prior to use as liner material;
- b) Asphalt of a thickness necessary to support the vehicle traffic on the stockpile pad but no less than two inches;
- c) Concrete of a thickness necessary to support the vehicle traffic on the stockpile pad but no less than three and one half inches; or
- d) Other materials that meet the permeability requirements of Minn. R. 7020.2125 and have been approved by the MPCA.

#### 3.3.2. Notifications.

The Permittee shall notify the MPCA staff via letter, facsimile, telephone or electronic mail, in accordance with Part 13.1 of this Permit, **at least three days before** beginning construction of the permanent stockpile site and **within three days** of completing construction.

### 3.4. Poultry Barn Floor Construction Requirements

The Permittee shall construct the poultry barn floor in accordance with the requirements found in Minn. R. 7020.2120 for the specific type of material used to construct the poultry barn floor, this Permit, and any design plans and specifications submitted with the permit application and approved by the MPCA.

#### 3.4.1. Notifications.

The Permittee shall notify the MPCA staff via letter, facsimile, telephone or electronic mail in accordance with Part 13.1 of this Permit, of the intent to construct a poultry barn floor **at least three business days** prior to commencement of construction and **within three business days** following completion of construction.

### 3.5. Feed Storage Area Pad and Runoff Controls Construction

The Permittee shall construct the feed storage area pad and runoff controls to ensure compliance with Minn. R. 7020.2003, this Permit, and any design plans and specifications submitted with the permit application and approved by the MPCA.

### 3.5.1. Feed Storage Area Pad.

The Permittee shall construct a feed storage area pad that complies with the approved Permit application and the following pad characteristics:

- a) One foot of soil categorized by NRCS practice standard 313 as group III or IV (20 to 100 percent passing the #200 sieve and a plasticity index of 11 or greater). Soils outside this range require approval from the MPCA prior to use as feed pad material. A minimum of two feet of separation shall be maintained between the top surface of the soil pad and the seasonal high water table.
- b) Asphalt of a thickness necessary to support the vehicle traffic on the feed storage area pad but no less than two inches;
- a) Concrete of a thickness necessary to support the vehicle traffic on the feed storage area pad but no less than three and one half inches; or
- b) Other materials that meet the permeability requirements of Minn. R. 7020.2125 and have been approved by the MPCA.

### 3.5.2. Feed Storage Area Runoff Controls.

The Permittee shall construct the feed storage area runoff control measures in accordance with the approved plans and specifications submitted with the permit application and approved by the MPCA.

#### 3.5.2.1. *LMSA for Runoff Control*

When construction of a runoff collection basin (LMSA) is proposed for feed storage area runoff controls, the Permittee shall follow the requirements of Part 3.1.1 of this Permit.

#### 3.5.2.2. *Vegetated Infiltration Basin (VIB) for Runoff Control*

When construction of a VIB is proposed for feed storage area runoff controls, the Permittee shall comply with the Natural Resources Conservation Service (NRCS) practice standard 635 LEVEL 2—Vegetated Infiltration Area design and operational requirements unless deviations from this standard have been approved by the MPCA as part of the design plans and specifications. Plans and specifications for a VIB do not need to be signed by a professional engineer.

#### 3.5.2.3. *VIB Pre-construction Notification*

The Permittee shall notify the MPCA staff via letter, facsimile, telephone or electronic mail, in accordance with Part 13.1 of this Permit, at least three (3) days prior to the start of construction of the VIB so that on-site inspections may be performed at the discretion of the MPCA staff.

#### 3.5.2.4. *Construction Sequence*

The Permittee shall construct and make operational the feed storage area runoff control system prior to operation of a new feed storage area or increased footprint of an existing feed storage area.

### 3.6. **Installation of Groundwater Monitoring System**

The Permittee shall install the groundwater monitoring system in accordance with the approved groundwater monitoring plan.

#### 3.6.1. Notifications.

The Permittee shall notify the MPCA staff via letter, facsimile, telephone or electronic mail in accordance with Part 13.1 of this Permit within three business days of completing installation of any wells or other devices necessary for groundwater monitoring.

### 3.7. **Stormwater Requirements During Construction**

The MPCA Construction Stormwater (CSW) NPDES general permit in effect at the time of issuance, or modification, of coverage under this Permit is incorporated by reference into this Permit and is an enforceable part of this Permit. The CSW NPDES general permit is available at: <http://www.pca.state.mn.us/>.

#### 3.7.1. Construction Stormwater NPDES General Permit Coverage.

When construction activity disturbs one or more acres of land, the Permittee must comply with the CSW NPDES general permit listed above, including development of a Stormwater Pollution Prevention Plan (SWPPP).

## 4. **Land Application and Nutrient Management**

The Permittee shall manage all manure in accordance with the MPCA-approved MMP and this Permit. The Permittee shall comply with the following requirements.

### 4.1. **Manure Nutrient Testing**

#### 4.1.1. Manure Testing Frequency.

The Permittee shall sample and analyze manure for nutrient content annually. Manure shall also be sampled following any changes to conditions that may significantly affect the nutrient content.

#### 4.1.2. Manure Sampling Protocol.

The Permittee's manure sampling protocol shall be consistent with the most recent published University of Minnesota Extension Service (MES) recommendations. Manure samples must be taken from enough sources so that nutrient content is known for each storage area with differing types of animals, feed, watering systems, manure handling, or other variables that may affect manure nutrient content.

## **4.2. Manure Application Equipment**

### **4.2.1. Equipment Calibration and Inspection.**

The Permittee shall ensure that equipment used for land application is calibrated according to MES or NRCS procedures so that actual application rates are known. The Permittee shall also ensure that the operator of the land application equipment periodically inspects it for leaks.

### **4.2.2. Responsible Transport.**

The Permittee shall ensure that manure that is hauled on federal, state, or local highways, roads, or streets is hauled in such a way as to prevent manure from leaking, spilling, or otherwise being deposited in the right-of-way. The Permittee shall ensure that manure deposited on a public roadway is promptly removed and properly disposed of by the hauler of the manure.

## **4.3. Manure Ownership**

The Permittee remains responsible for management of manure from the facility unless it is transferred to another party for land application on fields that are not owned or leased or otherwise controlled by the Permittee. At the time the other party assumes physical control of the manure, the manure ownership is considered to be transferred. The Permittee is responsible for manure hauled by the Permittee until it is physically relinquished to the other person.

## **4.4. Requirements When Manure Ownership is Transferred**

If the Permittee transfers ownership of manure, the Permittee shall comply with the MPCA-approved MMP and the requirements of Minn. R. 7020.2225 applicable to the transfer of manure.

## **4.5. Requirements When Manure Ownership is Retained (non-transferred)**

The Permittee shall comply with the MPCA-approved MMP, the requirements of Minn. R. 7020.2225 and the following:

### **4.5.1. Prohibition.**

Pursuant to Minn. R. 7020.2225, the Permittee shall ensure that manure or process wastewater are not applied to land in a manner that will result in a discharge to waters of the state during the application process.

### **4.5.2. Hydraulic Loading.**

In determining the rate at which manure and process wastewater are applied; the Permittee shall not exceed the hydraulic loading capacity of the land application site based on soil conditions.

### **4.5.3. Application Equipment.**

The Permittee shall ensure that equipment used for land application is properly operated to ensure that direct discharges do not occur.

#### 4.5.4. Soil Nitrate Testing.

The Permittee shall sample and test fields receiving manure for soil nitrate according to the method and frequency recommended by the most recent MES-published guidelines.

#### 4.5.5. Soil Phosphorus Testing.

The Permittee shall ensure that fields receiving manure are sampled and tested in the upper six inches for soil phosphorus at least once every four years. Soil sampling techniques must meet the most recently published sampling standards developed by either the MES or NRCS.

#### 4.5.6. Nitrogen Application.

The Permittee shall control manure application rates so the estimated nitrogen available to crops from all nitrogen sources (including commercial fertilizer) does not exceed expected annual crop nitrogen needs for non-legumes and expected nitrogen removal for legumes based on the most recent published recommendations of the MES. Recommendations from another land grant college in a contiguous state may be utilized provided the field and climate conditions at the land application site are similar to those within the contiguous state.

#### 4.5.7. Phosphorus Application.

In addition to meeting all nitrogen-based rate requirements, the Permittee shall apply manure in accordance with the following phosphorus management requirements. Crop phosphorus removal values are determined by the International Plant Nutrition Institute crop nutrient removal calculator found at <https://www.ipni.net/app/calculator/home>.

##### 4.5.7.1. *Phosphorus Management Near Waters.*

Where field average soil test levels exceed 21 parts per million (ppm) Bray P1 or 16 ppm Olsen within 300 feet of a lake, stream, intermittent stream, drainage ditch without protective berms, or a public waters wetland, the Permittee must either:

- a) Apply manure at a rate and frequency so that manure phosphorus applied during any six year period does not exceed crop phosphorus removal during that same period; or,
- b) Establish a vegetated buffer that does not receive manure application along the water provided that the buffer width is at least 100 feet along lakes and streams and is at least 50 feet wide along other waters.

#### 4.5.7.2. *Phosphorus Management on Extremely High Soil Test Phosphorus Soils.*

Where field average phosphorus soil test levels exceed 75 ppm Bray P1 or 60 ppm Olsen within 300 feet of an open tile intake, lake, stream, intermittent stream, drainage ditch without protective berms, or a public waters wetland, or exceed 150 ppm Bray P1 or 120 ppm Olsen on any other land, the Permittee shall land apply manure in accordance with all of the following:

- a) When manure is surface applied without incorporation within 24 hours, annual phosphorus application rates must not exceed crop phosphorus removal in the subsequent crop;
- b) When manure is injected or incorporated (within 24 hours), re-application of manure cannot occur until phosphorus from the previous manure application is calculated to have been removed by subsequent crops; and,
- c) the approved MMP includes runoff and soil erosion prevention practices that either achieve a "very low" or "low" rating with the Minnesota Phosphorus Index originally developed for the animal agriculture GEIS ([www.mnpi.umn.edu](http://www.mnpi.umn.edu)) or NRCS Technical Standard 590.

#### 4.5.8. Application Prior to Rainfall.

The Permittee shall immediately incorporate surface broadcast manure into the soil surface if a high probability (over 50 percent chance predicted by National Weather Service) of rainfall exceeding one-half inch is predicted within 24 hours of the end of the application period.

#### 4.5.9. Fall Application to Coarse-textured Soils.

The Permittee shall delay fall application onto fields that are dominated by coarse-textured soils until soil temperatures in the upper six inches are less than 50 degrees Fahrenheit, unless the application is necessary to avoid overflow of a LMSA and the application has been approved by the MPCA.

#### 4.5.10. Summer Application of Manure.

The Permittee shall not apply manure in June, July, or August to harvested fields unless a cover crop, as identified in the MMP, is planted for the remainder of the growing season. The Permittee shall use the results of the spring preplant soil nitrate test, when recommended by the MES, to determine the appropriate nitrogen application for the following year's crop.

#### 4.5.11. Application of Manure to Frozen or Snow-Covered Ground ("winter" application).

##### 4.5.11.1. *Solid Manure Applications*

After November 30<sup>th</sup> the Permittee shall not apply solid manure to frozen or snow-covered ground, unless all of the following conditions are met:

- a) Manure is applied on those fields identified and approved by the MPCA in the MMP for winter application;
- b) Manure is applied more than 300 feet from sensitive features including lakes, streams, open tile inlets, sinkholes, water supply wells, mines and quarries, intermittent streams, un-bermed drainage ditches, or public water wetlands;
- c) No active snowmelt is occurring that can create runoff from an application field. Active snowmelt is deemed to be occurring if there are two or more inches of snow on the field and maximum temperatures that exceed 40 degrees Fahrenheit are occurring or are predicted to exceed 40 degrees Fahrenheit within 24 hours of spreading manure;
- d) No rainfall over 0.25 inches is predicted by the National Weather Service with a probability greater than 50 percent within 24 hours of the end of the application period;
- e) Slopes must be less than or equal to six percent on the entire portion of the field where manure is land applied.
- f) Water or ice cannot occupy tillage furrows to the extent that additional snowmelt or precipitation cannot be contained between furrows or in other depressional storage areas within the field; and
- g) Fields used for land application must meet a total phosphorus loss risk index number of two or less (low to very low relative risk) as calculated according to the Minnesota Phosphorus Index.

#### 4.5.11.2. *Liquid Manure Applications*

Surface application of liquid manure to frozen or snow-covered ground after November 30<sup>th</sup> is **prohibited** except for emergency applications.

An application of liquid manure is considered an emergency only for situations beyond the control of the Permittee, such as unusual weather conditions, unavoidable equipment failure, or other circumstances that could not have been avoided with proper planning and management.

Emergency applications shall comply with the following:

- a) Only the volume of manure that is necessary to prevent manure storage overflows may be applied. Prior to emergency application, the Permittee shall use all options for additional temporary storage within other MPCA approved LMSAs;
- b) Liquid manure application to frozen or snow-covered soil shall be only on those fields identified and approved by the MPCA in the MMP for emergency application;
- c) The application of liquid manure on frozen or snow-covered soils shall be restricted to slopes of less than or equal to four percent;

- d) The application rate is restricted to a maximum of 3,500 gallons per acre per winter season, not to exceed 60 pounds of crop available P<sub>2</sub>O<sub>5</sub>;
- e) Applications must be more than 300 feet from sensitive features including lakes, streams, open tile inlets, sinkholes, water supply wells, mines and quarries, intermittent streams, un-bermed drainage ditches, or public water wetlands; and
- f) The application rate of manure onto frozen or snow-covered soil shall be adjusted to preclude runoff or ponding of liquid manure during the application process.

#### 4.5.11.3. *Notification.*

The Permittee shall notify the Minnesota Department of Public Safety Duty Officer toll free at 800-422-0798, and the MPCA by phone, in accordance with Part 13.1 of this Permit, within 24 hours of an emergency application of liquid manure to frozen or snow covered ground.

#### 4.5.12. Land Application Setbacks.

The MPCA-approved MMP submitted with the permit application identifies sensitive features within the fields utilized for land application of manure. The Permittee shall comply with the following land application of manure setbacks, as applicable to the type of sensitive features located within or adjacent to the field designated for land application. Implementing one of the measures identified below that was not included as part of the approved MMP shall not be considered a modification of the MMP.

##### 4.5.12.1. *Manure application setbacks to open tile intakes.*

Manure application is prohibited within 300 feet of an open tile intake unless one of the following protective measures is employed:

- a) Manure is injected or incorporated prior to rainfall or within 24 hours (whichever occurs first) within 300 feet of the open tile intake.
- b) No manure is applied within 100 feet of the open tile intake and a one rod (16.5 feet) perennial grass buffer exists around the open tile intake.
- c) A 35 foot perennial grass buffer, that does not receive manure application, exists around the open tile intake.

##### 4.5.12.2. *Manure application setbacks to drainage ditches.*

Manure application is prohibited within 300 feet of a drainage ditch unless one of the following protective measures is employed:



- a) A protective berm prohibits runoff from directly entering the drainage ditch such that runoff must travel at least 300 feet, measured from the nearest point of manure application, before entering the drainage ditch.
- b) Manure is not applied within 25 feet of the drainage ditch and manure is injected or incorporated prior to rainfall or within 24 hours (whichever occurs first) within 300 feet of the drainage ditch. Additionally soil phosphorus levels must be managed so that levels do not increase beyond 21 ppm (Bray P1) or 16 ppm (Olsen) within any six year period.
- c) No manure is applied within 100 feet of the drainage ditch and a one rod (16.5 feet) perennial grass buffer exists along the drainage ditch.
- d) A 50 foot perennial grass buffer, that does not receive manure application, exists along the drainage ditch.

4.5.12.3. *Manure application setbacks to lakes, rivers, or perennial streams.*

Manure application is prohibited within 300 feet of a lake, river, or perennial stream unless one of the following protective measures is employed:

- a) Manure is not applied within 25 feet of the lake, river, or perennial stream and manure is injected or incorporated prior to rainfall or within 24 hours (whichever occurs first) within 300 feet of the lake, river, or perennial stream. Additionally soil phosphorus levels must be managed so that levels do not increase beyond 21 ppm (Bray P1) or 16 ppm (Olsen) within any six year period.
- b) No manure is applied within 100 feet of the lakes, rivers, or perennial stream and a one rod (16.5 feet) perennial grass buffer exists along the lake, river, or perennial stream.
- c) A 100 foot perennial grass buffer, that does not receive manure application, exists along the lake, river, or perennial stream.

4.5.12.4. *Manure application setbacks to intermittent streams or public waters wetlands.*

Manure application is prohibited within 300 feet of an intermittent stream or public waters wetland unless one of the following protective measures is employed:

- a) Manure is not applied within 25 feet of the intermittent stream or wetland, and is injected or incorporated prior to rainfall or within 24 hours (whichever occurs first) within 300 feet of the intermittent stream or wetland. Additionally soil phosphorus levels must be managed so that levels do not increase beyond 21 ppm (Bray P1) or 16 ppm (Olsen) within any six year period.

- b) No manure is applied within 100 feet of the intermittent stream or wetland and a one rod (16.5 feet) perennial grass buffer exists along the intermittent stream or wetland.
- c) A 50 foot perennial grass buffer, that does not receive manure application, exists along the intermittent stream or wetland.

4.5.12.5. *Manure application setbacks to wells, mines, or quarries.*

Manure application is prohibited within 100 feet of a well, mine, or quarry.

4.5.12.6. *Manure application setbacks to sinkholes.*

Manure application is prohibited within 300 feet of a sinkhole unless one of the following protective measures is employed:

- a) Manure is not applied within 100 feet of the sinkhole and manure is injected or incorporated prior to rainfall or within 24 hours (whichever occurs first) within 300 feet of the sinkhole.
- b) A protective berm exists that prohibits runoff from entering the sinkhole.

4.5.12.7. *Manure Application near Road Ditches.*

The Permittee shall not land apply manure into road ditches. When manure is applied near a road ditch, and the road ditch is an intermittent stream or drainage ditch, then one of the protective measures applicable to intermittent streams or drainage ditches must be followed.

4.5.13. Soil Erosion Conservation.

The Permittee shall employ one, or more, of the following soil erosion conservation practices, in accordance with the applicable NRCS practice standard, for manure application to fields during frozen or snow-covered soil conditions and all areas of fields within 300 feet of all special protection areas, surface tile intakes, sinkholes without constructed diversions, and uncultivated wetlands:

- a) Establishment of grass waterways;
- b) Contour strip cropping;
- c) No-till cropping;
- d) Terracing;
- e) Use rotations that include crops other than row crops (alfalfa, grass, etc.);
- f) Chisel or disk tillage with residue;
- g) Meet tolerable soil erosion rates ("T") as defined by the NRCS;
- h) Field edge buffers;
- i) Contour buffer strips;

- j) Sediment control basin; or
- k) Cover crop.

## 5. Facility Operation and Maintenance

The Permittee shall operate and maintain the facility in accordance with the permit application, the MPCA-approved plans and specifications, and the conditions of this Permit.

### 5.1. Conditions for All Manure Storage Areas.

#### 5.1.1. Prohibition.

The Permittee is prohibited from discharging, depositing, or otherwise placing any substance into the manure storage area(s) except manure, process wastewater, or manure-contaminated runoff unless expressly authorized in writing by the MPCA.

#### 5.1.2. Surface Drainage.

The Permittee shall ensure that stormwater from surface drainage channels and building gutter systems is discharged away from any manure storage areas. The areas around any manure storage areas must be graded so that surface water drains away from the manure storage area and to prevent pooling of rain or snow melt waters around the immediate vicinity of these structures.

### 5.2. Liquid Manure Storage Area (LMSA) Requirements.

The Permittee shall operate and maintain the LMSA in accordance with the MPCA-approved design plans and specifications, the standards outlined in Minn. R. 7020.2100 and this Permit.

#### 5.2.1. Fencing.

The Permittee shall provide fencing around the perimeter of any at-grade or near-grade LMSAs where accidental or unauthorized access by humans or livestock may cause damage to the LMSAs or endanger the person or livestock. Warning signs shall be placed in prominent locations around the LMSAs.

#### 5.2.2. Freeboard.

The Permittee shall operate the LMSA to maintain the freeboard of the LMSA as indicated in the approved design plans and specifications and Minn. R. 7020.2100, subp. 4, item D. All LMSAs are required to have a freeboard marker.

##### 5.2.2.1. *Freeboard Marker.*

For open-air LMSAs the Permittee shall install and maintain a visual marker that clearly indicates the freeboard of the LMSA. For covered LMSAs, including those that are below a barn, the Permittee shall develop and employ a system to measure and monitor the liquid level in the LMSA such that the freeboard of the LMSA is maintained.

#### 5.2.2.2. Notification of Freeboard Utilization.

The Permittee shall notify the MPCA staff, via telephone or electronic mail in accordance with Part 13.1 of this Permit, **within 24 hours** of manure or process wastewater encroachment into the freeboard of the LMSA. The notification must include the approximate depth of storage space remaining and an estimated timeline for manure or process wastewater removal from the LMSA, as well as the facility name, permit number, county, township, section number and the date when the freeboard encroachment began. Notification under this part does not release the Permittee from the obligation to maintain the freeboard of a LMSA.

#### 5.2.3. Notification of Anaerobic Digester Bypass.

In the event that manure must by-pass an anaerobic digester and be deposited into a LMSA that does **not** have an impermeable cover, the Permittee shall notify the MPCA staff via telephone or electronic mail in accordance with Part 13.1 of this Permit, **within three business days** after the bypass begins. The notification shall include the reason for the bypass and the anticipated length of time until the digester will be restarted, as well as the facility name, permit number, county, township, section number and the date when the bypass began.

A bypass of the anaerobic digester does not release the Permittee from violations of the state ambient air quality standards for hydrogen sulfide as provided in Minn. R. 7009.0080.

### 5.3. **Solid Manure Stockpile Requirements.**

The Permittee shall operate and maintain all manure stockpiles in accordance with Minn. R. 7020.2125, this Permit, and any approved plans and specifications.

#### 5.3.1. Short-term Stockpile Establishment.

The Permittee may establish a short term stockpile at the facility in conjunction with manure pack removal activities from animal holding areas without the need to modify coverage under this Permit, provided the manure is stockpiled for fewer than 10 consecutive days, and no more than 6 times per calendar year. This does not release the Permittee from compliance with the effluent limitations of this Permit.

#### 5.3.2. Permanent Stockpile Pad Repairs.

##### 5.3.2.1. Concrete or Asphalt Pads

For permanent stockpile pads composed of concrete or asphalt, the Permittee shall repair any damage to the pad that compromises the integrity or thickness of the pad required by Part 3.3.1 of this Permit within 60 days of discovery.

#### 5.3.2.2. *Compacted Soil Pads*

For permanent stockpile pads composed of compacted soils, the Permittee shall repair any damage to the pad that compromises the integrity or thickness of the pad required by Part 3.3.1 of this Permit, including any ruts made by vehicles in excess of six inches in depth, within 60 days of discovery.

#### 5.3.3. Runoff Controls.

The Permittee shall operate and maintain the runoff controls for the permanent stockpile pad such that all liquids produced, including leachate and contaminated runoff, are captured by a control structure as described in the permit application.

#### 5.4. **Composting of Manure.**

The Permittee shall operate and maintain the manure compost site in accordance with Minn. R. 7020.2150 and the permit application, including any approved plans and specifications. A manure compost site is considered a manure stockpile and shall meet all requirements of this Permit as it applies to manure stockpiles.

#### 5.5. **Poultry Barn Floor Requirements.**

The Permittee shall operate and maintain the poultry barn floor thickness and integrity in accordance with the construction requirements of Minn. R. 7020.2120 and the permit application, including any approved plans and specifications.

#### 5.6. **Feed Storage Areas.**

The Permittee shall operate and maintain the feed storage area and any associated runoff control measures in accordance with the permit application and any approved plans and specifications and the following.

##### 5.6.1. Prohibitions.

###### 5.6.1.1. *Manure Storage*

The Permittee shall not store manure on the feed storage area pad unless such storage was part of the approved design.

###### 5.6.1.2. *Construction/Expansion*

Unless authorized by this Permit, the Permittee shall not construct and/or expand a feed storage area without a modification of the coverage provided by this Permit, as required in Part 11.

##### 5.6.2. Feed Storage Area Pads.

The Permittee shall ensure that any proposed **and/or existing** feed storage area pad(s) meets the requirements of Part 3.5.1. The Permittee shall comply with the following requirements for maintenance of the feed storage area pad.

#### 5.6.2.1. *Maintenance of Concrete or Asphalt Pads*

For feed storage area pads composed of concrete or asphalt, the Permittee shall repair any damage to the pad that compromises the integrity or thickness of the pad within 60 days of discovery. The minimum thickness of the pad shall conform to Part 3.5.1 of this Permit.

#### 5.6.2.2. *Maintenance of Compacted Soil Pads*

For feed storage area pads composed of compacted soils, the Permittee shall repair any damage to the pad that compromises the integrity or thickness of the pad, including any ruts made by vehicles in excess of six inches in depth, within 60 days of discovery. The minimum thickness of the pad shall conform to Part 3.5.1 of this Permit.

### 5.6.3. Feed Storage Area Runoff Controls.

The Permittee shall operate and maintain the feed storage area such that all liquids produced, including leachate and contaminated runoff, are captured by a control structure as described in the permit application.

#### 5.6.3.1. *Sweet Corn Silage Leachate and Runoff*

When 1,000 or more tons of sweet corn silage is stored at the facility, the Permittee is prohibited from using a vegetated infiltration basin as a leachate and contaminated runoff control structure.

#### 5.6.3.2. *Liquid Manure Storage Area*

When leachate and feed storage area runoff is directed to a LMSA at the facility, the Permittee shall perform operation and maintenance of the components used to convey the contaminated liquids to the LMSA in accordance with Part 5.2 of this Permit.

#### 5.6.3.3. *Vegetated Infiltration Basin (VIB)*

When leachate and feed storage area runoff is managed with a VIB, the Permittee shall perform the following operation and maintenance activities:

- a) clean out and repair structures that contain and convey contaminated liquids during the design storm event on an annual basis;
- b) Remove accumulated solids from solids settling areas when the depth of solids exceeds one foot;
- c) Repair channel/rill erosion that develop;
- d) Re-establish vegetation that has been damaged or destroyed due to winter-kill, flooding, drought, etc.; and

- e) Harvest the vegetation at least two times per year. The preferred method of harvesting is by mechanical means; however, grazing by animals can be utilized in limited cases. Grazing by animals may not be done without first receiving written approval from the MPCA and shall be limited to no more than three grazing periods per year, with each grazing period lasting no more than five days.

## **5.7. Groundwater Monitoring Requirements.**

If the facility has a groundwater monitoring system, the Permittee shall operate and maintain the groundwater monitoring network in accordance with the approved groundwater monitoring plan on file with the MPCA, submitted with the permit application, or as required in this Permit.

### **5.7.1. Reduction of Monitoring.**

The Permittee may request the MPCA, in writing, to approve a reduction in the frequency and/or parameters analyzed if results after three years indicate consistent or decreasing results. No reduction in monitoring shall occur without MPCA written approval.

## **5.8. Animal Mortalities**

The Permittee shall store, handle, treat, and/or dispose of animal mortalities in accordance with all applicable requirements of the Board of Animal Health (Minn. R. ch. 1719) and the approved emergency response plan. Disposal of animal mortalities in accordance with Board of Animal Health requirements does not release the Permittee from any state or local permits that might be needed nor does it release the Permittee from any liability for contamination of ground or surface water that might result from the disposal method.

### **5.8.1. Prohibition.**

This Permit does not authorize discharges from any animal mortality management area. The Permittee is prohibited from discharging from the animal mortality area to surface or ground waters of the state, or disposing of animal mortalities within any manure storage area.

### **5.8.2. Animal Mortality Composting.**

A compost area whose function is to compost animal mortalities is not considered to be a "manure" compost area and is not required to meet the requirements of Minn. R. 7020.2150. However, when manure is used as compost medium for an "animal mortality" composting area, the requirements of Minn. R. 7020.2125 for manure stockpiles shall apply.

## **5.9. Ambient Air Quality Standard Exemption for Removal of Manure**

Pursuant to Minn. Stat. § 116.0713, the Permittee shall be exempt from ambient air quality standards during agitation and removal of manure from the facility for land application if the Permittee has notified the MPCA in writing prior to commencement of the agitation and removal of manure. The written notification shall be via letter, electronic mail, or facsimile in accordance with Part 13.1 of this Permit and must include the following:

- a) The names of the owners or the legal name of the facility;
- b) The location of the facility by county, township, section, and quarter section;
- c) The facility's registration number; and
- d) The anticipated start date and the anticipated number of days of removal of manure from the barns or manure storage areas.

The maximum cumulative exemption days claimed by the Permittee shall not exceed 21 days per calendar year.

## 6. Required Inspections and Corrective Actions

The Permittee shall perform the following inspections of the permitted facility and perform any required maintenance or action necessary to correct any deficiencies. A record of all inspection results and corrective actions is to be maintained by the Permittee in accordance with Part 9 of this Permit.

### 6.1. Inspection Frequency

For items 6.2 to 6.4, the Permittee shall make the following inspections at the facility according to the schedule indicated and after any rainfall event exceeding the 25 year, 24 hour storm event.

### 6.2. LMSA Inspections

The Permittee shall make the following inspections for the LMSA(s) at the facility:

- a) A **weekly** visual inspection of the LMSA and any devices channeling manure-contaminated runoff to the LMSA to assess conformance to the design plans and this Permit;
- b) A **weekly** visual inspection of the liquid level and freeboard marker in each LMSA to ensure that adequate freeboard is maintained;
- c) For LMSAs with a perimeter drain tile, a **monthly** examination of the monitoring port or drain tile outlet for water flow and signs of discoloration or odor in any water flowing in the drain tile;
- d) Anaerobic Digesters - In addition to the inspections for LMSAs above, the Permittee shall conduct a weekly visual inspection of any digester system to assess its performance and to check for system malfunctions.

### 6.3. Solid Manure Storage Area Inspections

The Permittee shall make a **weekly** visual inspection of the physical condition all manure storage areas, stormwater diversion devices, and runoff control structures.

### 6.4. VIB Inspections

The Permittee shall make a weekly visual inspection of all VIBs to assess its conformance to the operation and maintenance requirements of Part 5.6.3.3.



## 6.5. Other Facility Components

The Permittee shall make the following inspections:

- a) A weekly visual inspection of all facility components including animal holding areas, manure transfer systems, feed storage areas, and mortality handling areas to assess their conformance to the Permit.
- b) Periodic inspection of land application of manure equipment for leaks; and
- c) A **daily** inspection of all water lines unless an equivalent method for checking water lines is employed such as water meters or pressure gauges.

## 6.6. Correction of Deficiencies

The Permittee shall correct any deficiencies found as a result of the inspections required above within 30 days, or within a shorter timeframe when required elsewhere in this Permit, unless one of the following apply:

- a) Construction is required that cannot be effectively performed during the winter season;
- b) The activity to correct the deficiency requires a Permit modification or Permit issuance;
- c) A piece of equipment/part required to correct the deficiency cannot be manufactured and installed within 30 days; or
- d) Other reasons beyond the direct control of the Permittee.

### 6.6.1. Notification.

The Permittee shall notify the MPCA **within 20 days** of discovery of any deficiency if an extended period of time is needed to correct the deficiency. The notification is to be in written form and may be submitted via mail, facsimile, or electronic mail. The notice shall include an explanation for the delay and indicate the expected period of time needed to correct the deficiency. This notification does not preclude the MPCA from taking any administrative or legal actions to compel compliance.

### 6.6.2. LMSA Repairs.

Any repair to the liner of a LMSA must be approved by the MPCA prior to commencement of the repair and the Permittee shall submit plans and specifications prepared by a design engineer if requested by the MPCA.

## 7. Closure

### 7.1. Temporary Closure

The Permittee shall comply with the following for any part of the facility that is temporarily closed.

### 7.1.1. Permit Coverage.

The Permittee shall maintain permit coverage for the entire facility, including that portion which is temporarily closed.

### 7.1.2. Manure Removal.

Within one year of ceasing operation of all or part of the facility, the Permittee shall remove manure from animal holding areas and manure storage areas that have been temporarily closed and land apply the manure in accordance with the terms and conditions of Part 4 of this Permit.

### 7.1.3. Operational Measures for LMSAs.

The Permittee shall take the following actions when a LMSA is temporarily closed:

- a) Maintain a two-foot depth of manure and/or water in a LMSA to provide protection from damage caused by freezing temperatures. Clean water can be added to any LMSA following removal of all manure to alleviate concerns of damage caused by freezing temperatures; and
- b) Maintain the LMSA in accordance with the MPCA approved O&M Plan and the requirements of Part 5.1 and 5.2 of this Permit. Over-flow of the LMSA shall be prevented by maintaining the required freeboard.

### 7.1.4. Actions Required Prior to Re-use of LMSA.

The Permittee shall, before using any LMSA that has been unused for three years or more, have a design engineer evaluate and prepare a report on the condition of the liner. The Permittee shall submit the report to the MPCA for review and approval prior to using the structure.

## 7.2. **Permanent Closure**

The Permittee shall comply with the following for any part of the facility that is permanently closed.

### 7.2.1. Manure Removal.

Within one year after ceasing operation, the Permittee shall remove manure from all animal holding and manure storage areas where operation has ceased and land apply the manure in accordance with the terms and conditions of Part 4 of this Permit.

### 7.2.2. Closure of Earthen-floored Animal Holding Areas and Permanent Stockpile Sites.

#### 7.2.2.1. *Contaminated soils*

Within one year after ceasing operation, the Permittee shall remove and land apply all manure-contaminated soils from any animal holding area with earthen floors or permanent stockpile sites that are permanently closed.

#### 7.2.2.2. *Vegetation*

Unless a structure or other impervious surface will be constructed over the closed animal holding area or stockpile within 60 days, the Permittee shall, as soon as practicable after removing the manure-contaminated soils, reduce soil nitrogen on the areas by growing alfalfa, grasses, or other perennial forage for at least five years.

#### 7.2.3. Closure of Earthen-lined LMSAs.

Within one year of ceasing operation, the Permittee shall remove all manure-contaminated soils from any earthen-lined LMSAs where operation has ceased. After removal of the manure-contaminated soils, the Permittee may either:

- a) Fill the excavated area with clean fill material with the top soil mounded to allow for settling of the fill material and prevent precipitation from pooling in the area; or
- b) Leave the excavated area open to act as a duck pond or other purpose. If this option is selected, the excavated area shall not be used to store manure or any other waste material without approval of the MPCA.

#### 7.2.4. Closure of LMSAs with Non-earthen Liners.

Within one year of ceasing operation, if the Permittee removes the liner material and discovers contaminated soils, the Permittee shall remove and land apply the contaminated soils. The Permittee may either:

- a) Filling the area with clean fill material with the top soil mounded to allow for settling of the fill material and divert precipitation from pooling in the area; or
- b) Leaving the area open to act as a duck pond or other purpose. If this option is selected, the LMSA shall not be used to store manure or any other waste material without approval of the MPCA.

#### 7.2.5. Notification.

Where the discontinued animal housing or manure storage area will be covered with fill material or another structure, the Permittee shall notify the MPCA staff via telephone or electronic mail in accordance with Part 13.1 of this Permit, at least **three business days** prior to filling or covering over the area that has been cleaned of manure and manure-contaminated soils.

#### 7.2.6. Reporting.

Within 60 days after completing permanent closure of the animal holding area(s) or manure storage area(s) the Permittee shall submit a certified letter in accordance with Part 13.1 of this Permit to notify the MPCA that the closure activities have been completed according to Minn. R. 7020.2025 and this Permit. The notification will include:

- a) The names of the owners or the legal name of the facility;

- b) The location of the facility by county, township, section, and quarter section; and
- c) The facility's registration number.

## 8. Reporting Requirements

**Reporting** refers to the information that the Permittee is required to submit to the MPCA regarding the construction, operation, and maintenance of the facility.

### 8.1. Discharge, Spill, and Overflow Reporting Requirements.

The Permittee shall **immediately** report by telephone to the **State Duty Officer (800-422-0798)** and the MPCA any spill, overflow, or discharge of manure, process wastewater, or manure-contaminated runoff.

#### 8.1.1. Written Report of Discharge, Spill, or Overflow.

**Within five days** of any discharge, spill, or overflow, the Permittee shall provide the MPCA with a written statement that includes the following information:

- a) Cause of discharge, spill, or overflow, such as precipitation (inches of rain or snow per day) or other cause (e.g., structural failure, equipment breakdown);
- b) A description and approximate volume of any discharge, spill, or overflow;
- c) Location and name, if available, of the waterway, dry ditch, gully, creek, stream, pond, lake, river, or other waters of the state receiving the discharge, spill, or overflow;
- d) Corrective steps being taken to reduce or eliminate and prevent a recurrence of a non-permitted discharge, spill, or overflow;
- e) The period of time the discharge, spill, or overflow occurred including exact dates and times or, if still occurring, the anticipated time the discharge, spill, or overflow will continue; and
- f) Name of person reporting the discharge, spill, or overflow.

### 8.2. Annual Reporting.

**By March 1<sup>st</sup>** of each year, the Permittee shall submit to the MPCA an annual report, on a form specified by the MPCA for the following activities pertaining to the operation and maintenance of the facility which occurred in the previous calendar year or otherwise specifically indicated:

#### 8.2.1. Animal Housing.

The Permittee shall indicate the maximum number and type of animals that were present at the facility at any point within the reporting period.

#### 8.2.2. Non-Compliance with Permit.

The Permittee shall provide a summary of any non-compliance with the permit including, overflows, spills, encroachment into the freeboard of a LMSA, or overstocking of an animal holding area.

The summary shall include the following:

- a) Description and cause of the noncompliance;
- b) The period that the facility was in noncompliance with the permit conditions, including exact dates and times;
- c) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- d) A description of the steps taken to reduce, eliminate, and prevent reoccurrence of the noncompliance.

**8.2.3. Amount of Manure Generated.**

The Permittee shall include the amount of manure, manure-contaminated runoff and process wastewater generated at the feedlot.

**8.2.4. Acreage in MMP.**

The Permittee shall provide the total number of acres included in the MPCA-approved MMP, even if the acreage was not utilized for land application during the reporting period.

**8.2.5. Land Application of Manure.**

The Permittee shall include the following pertaining to land application of manure:

- a) Land application records for the cropping year that ended the previous calendar year. These records shall include the items listed in Part 9.1.6, as applicable;
- b) Land application records of any emergency land application of liquid manure during winter conditions in accordance with Part 4.5.11.2 of this Permit.
- c) The total number of acres under control of the Permittee that were used for land application of manure in the cropping year that ended the previous calendar year.

**8.2.6. MMP Developer.**

The Permittee shall include a statement indicating whether the current version of the MMP was developed by a certified nutrient management planner, NRCS technical service provider for nutrient management, or any other type of certified nutrient management planner, as required by 40 CFR pt. 122.42(e)(4). The use of a certified MMP plan writer is not required by this Permit.

**8.2.7. LMSA Damage and Repair.**

The Permittee shall include a description of any damage and repair of any part of any LMSA.

**8.2.8. Manure Composting.**

The Permittee shall include the information required in Minn. R. 7020.2150, subp. 3.B (1)-(3).

#### 8.2.9. Groundwater Monitoring.

The Permittee shall include all monitoring results obtained during the previous calendar year from any groundwater monitoring activities, including monitoring wells or perimeter tile. Results for the year shall consist of all analytic results, any groundwater elevation data, any monitoring system construction or repairs, and any MPCA-required interpretation of monitoring results.

#### 8.2.10. Temporary Facility Closure.

The Permittee shall include the following information pertaining to temporary facility closure:

- a) Which animal housing and/or manure storage area(s) has been temporarily closed;
- b) The date that each area(s) was closed;
- c) Any actions taken to prevent the closed area(s) from discharging to waters of the state (i.e., removal of manure from barns, open lots, and manure storage areas, or control of overflows from open air LMSAs as a result of precipitation events); and
- d) The land application of manure and manure-contaminated soil removed from any part of the closed facilities shall be reported in the land application portion of the annual report.

#### 8.3. **Permanent Facility Closure Report.**

The Permittee shall, within 60 days after final closure, submit a certified letter to the MPCA as described in Part 7 of this Permit.

#### 8.4. **Anaerobic Digester Bypass Report.**

Within **ten business days** of the bypass reported as required in Part 5.2.3 of this Permit, the Permittee shall submit a statement to the MPCA that includes the information required in notification, as well as, an explanation of the actions taken to correct the problems which created the need for the bypass.

#### 8.5. **Report Retention.**

The Permittee shall retain all reports and submittals required by this Permit for a period of **six years**, unless otherwise indicated in the Permit.

### 9. **Recordkeeping Requirements**

**Recordkeeping** refers to the information that the Permittee is required to collect and retain on site regarding the construction, operation, and maintenance of the facility.

## **9.1. Recordkeeping Requirements**

### **9.1.1. Records Retention.**

Except where specifically noted, the Permittee shall retain all records required by the conditions of this Permit for a minimum of **six years**. This retention period shall be automatically extended during the course of any legal or administrative proceedings or when so requested by the MPCA. Records shall be maintained at the facility or at the Permittee's business address.

### **9.1.2. General Facility Records.**

The Permittee shall maintain the following facility maintenance records:

- a) A description of any modifications in the manure collection, containment, and storage facilities. This description shall include any damage and repair of the manure storage, containment, or handling facilities.
- b) Any substantial changes in management or operating procedures including, but not limited to, changes related to improvements in runoff control and confinement barns.
- c) Any significant activities that alter the nature of the facility or that would increase the likelihood of manure-contaminated runoff from the facility or potential for groundwater pollution;
- d) Information pertaining to the management of animal mortalities to assure compliance with Part 5.8 of this Permit; and
- e) Any other factors affecting compliance with the conditions of this Permit and such information as the MPCA may reasonably require of the Permittee pursuant to Minn. R. ch. 7020 and Minn. Stat. chs. 115 and 116, as amended.

### **9.1.3. Rainfall Records.**

The Permittee shall maintain records of the dates and amounts for all rainfall events at any facility where manure or raw material, intermediate product, or final product storage is exposed to rainfall. The Permittee may alternatively satisfy this requirement by directing the MPCA to data maintained by governmental agencies or educational institutions.

### **9.1.4. Required Inspection Records.**

The Permittee shall maintain records of the results of the inspections required in Part 6, including any deficiencies found and documentation of any actions taken to correct deficiencies found during the inspections, including the date that the deficiency was discovered and the date when corrective measures were completed. For any deficiencies not corrected within 30 days of discovery, the documentation must include an explanation as to why the corrections were not made within the 30-day period and the status of the corrective measures being taken to resolve the deficiencies.

### 9.1.5. Ambient Air Quality Exemption Records.

The Permittee shall retain records of the written requests for exemption to the ambient air quality standards during manure removal.

### 9.1.6. Land Application Records.

#### 9.1.6.1. *Records when Manure Ownership is Transferred*

The Permittee shall document the following information on a form provided by the MPCA that includes all required information.

- a) Total amount of each manure source from the facility that was sold or given away (in gallons or tons);
- b) The date(s) of manure transfer to other parties;
- c) Results of the manure nutrient analyses for each source of manure from the facility;
- d) Name and address of any commercial applicator or other person(s) who received the manure, including a signature indicating that the recipient received a copy of the state manure application requirements;
- e) The location where the manure was applied, including county township range and section; and
- f) The rate(s) of application (in tons per acre or gallons per acre).

#### 9.1.6.2. *Records when Manure Ownership is Retained (non-transferred)*

The Permittee shall document the following information for each **field** where manure is applied on a form provided by the MPCA that includes all required information.

- a) Field location and number of acres actually used at each land application site, including the county, township, range, and section, as well as a unique field identifier shown on maps or aerial photos in the MMP;
- b) The results and date of the most recent nutrient analyses of each source of manure from the facility that include, at a minimum, the amount of nitrogen and phosphorus;
- c) Dates of manure application;
- d) Method of application, including number of days to incorporation (if incorporated within 10 days of application);
- e) Gallons or tons of manure applied on each field;
- f) Total plant-available nitrogen applied in pounds per acre from all sources, including first and second year nitrogen available from manure, fertilizer nitrogen, and any other sources;



- g) The total plant-available pounds of phosphate applied from all sources, including manure, fertilizer, and any other sources;
- h) The crop grown and the expected crop yields for crops that have University of Minnesota Extension Service recommendations which are dependent on crop yield information; and
- i) Any results of soil testing for nitrogen and phosphorus.

**9.1.7. Discharge Records.**

The Permittee shall maintain a record of the report information required by Part 8.1 of this Permit.

**9.1.8. Short Term Stockpile Records.**

The Permittee shall maintain records for each short term stockpile in accordance with this Permit and shall contain the items required in Minn. R. 7020.2125, subp. 3, items A - E.

**9.1.9. Manure Compost Site Records.**

The Permittee shall maintain records of manure composting activities in accordance with this Permit and shall contain the items required in Minn. R. 7020.2150, subp. 3, Item A.

**9.1.10. Liquid Manure Storage Area Design and Construction Records.**

The Permittee shall retain the design plans and related construction documentation of any LMSA at the facility until the structure is permanently closed.

**9.1.11. Poultry Barn Floor Construction Records.**

The Permittee shall maintain records of the results of all testing required by Minn. R. 7020.2120 until the structure is permanently closed.

**9.1.12. Groundwater Monitoring Records.**

The Permittee shall retain the records pertaining to groundwater monitoring as identified in the MPCA-approved Groundwater Monitoring Plan until the Permittee receives written approval from the MPCA to cease the ground water monitoring activities.

**9.1.13. Records Availability.**

The Permittee shall make these records available for examination and copying upon request of the MPCA or designated county feedlot pollution control officer (CFO) and shall, upon request, submit these records to the MPCA or CFO within **30 days**.

## 10. Effluent Limitations and Discharges

### 10.1. All Discharges.

#### 10.1.1. Reporting.

The Permittee shall report all discharges under Part 8.1 of this Permit, even where authorized by this Permit.

#### 10.1.2. Mitigation of Discharges

The Permittee shall ensure that all discharges associated with the facility do not cause or contribute to non-attainment of applicable state water quality standards. When a discharge occurs, whether that discharge is authorized by this Permit or not, the Permittee shall take all actions necessary to minimize that discharge, to recover the discharged material before it reaches waters of the state, and to mitigate impacts to waters of the state caused by the discharge in the event that the discharge has reached such waters.

#### 10.1.3. Water Quality Standards.

Where the MPCA determines that discharges from a facility or the land application areas under the Permittee's control have the potential to cause or contribute to non-attainment of applicable water quality standards, the MPCA reserves the right to require the Permittee to apply for an individual NPDES permit as provided for in Minn. R. 7001.0210. The individual NPDES permit will replace the Permittee's general NPDES permit and will contain conditions limiting such discharges.

### 10.2. Production Area Discharges to Surface Waters.

#### 10.2.1. New Source Swine, Poultry, or Veal Calves.

This part pertains to swine, poultry, or veal calf facilities that began construction after December 4, 2008, and are subject to a new source performance standard in 40 CFR pt. 412 prohibiting discharges from the production area as defined by 40 CFR pt. 312.2(h).

##### 10.2.1.1. *Facility Design Standard*

The Permittee shall ensure that the production area is designed, constructed, operated, and maintained to contain all manure, manure-contaminated runoff, or process wastewater, and all direct precipitation.

##### 10.2.1.2. *Discharge Prohibited*

The Permittee shall not discharge manure, manure-contaminated runoff, or process wastewater into surface waters of the state from the production area.

#### 10.2.2. Feedlots other than New Source Swine, Poultry, or Veal Calves Facilities.

This part pertains to feedlots that are not subject to a new source performance standard in 40 CFR pt. 412 that prohibits discharges from the production area as defined by 40 CFR pt. 312.2(h).

#### 10.2.2.1. *Facility Design Standard*

The Permittee shall ensure that the production area is designed, constructed, operated, and maintained to contain all manure, manure-contaminated runoff, or process wastewater, and the direct precipitation from a 25-year, 24-hour storm event as defined by the Precipitation - Frequency Atlas of the United States, National Oceanic and Atmospheric Administration;

#### 10.2.2.2. *Authorized Discharge*

The Permittee is authorized to discharge manure, manure-contaminated runoff, or process wastewater into surface waters of the state from the production area only if the overflow of manure or process wastewater is caused by a precipitation event and the facility is in compliance with all of the following:

- a) The facility design standard of item 10.2.1.1
- b) The operational requirements of Part 5 of this Permit; and
- c) The recordkeeping requirements of Part 9 of this Permit.

### **10.3. Land Application Area Discharges to Surface Waters.**

The Permittee shall not discharge manure, manure-contaminated runoff, or process wastewater from a land application area, except where the discharge is an agricultural storm water discharge as defined by this Permit.

### **10.4. Subsurface Discharges.**

The Permittee shall not discharge from the facility, by overflow or other means, manure, manure-contaminated runoff, or process wastewater to a sinkhole, fractured bedrock, well, surface tile intake, mine, quarry, or other natural or constructed channels that convey fluids to groundwater.

### **10.5. Animal Access Restrictions.**

In accordance with Minn. R. 7020.2015, the Permittee shall prohibit any livestock confined on the feedlot covered under this Permit from entering waters of the state.

## **11. Permit Modification**

The Permittee shall submit a revised permit application to the MPCA for review and approval prior to all modifications as defined by Minn. R. 7020.0300, subp. 14b, including both major and minor modification requests.

Guidance pertaining to permit requirements for modification of a feedlot can be found in the MPCA factsheet "Modification of NPDES and SDS feedlot permits" which is available at [www.pca.state.mn.us/feedlots](http://www.pca.state.mn.us/feedlots).

### **11.1. Application Submittal**

The permit application requesting a modification may be submitted at any time. However, it is recommended that the permit application be submitted at least 180 days before the planned starting date of the modification. The permit application must be accompanied by updates to the plans required by Part 2 that are affected by the modification to the facility, and/or design plans and specifications for the construction or modification of a manure storage area as required by Minn. R. ch. 7020.

### **11.2. Commencement of Modification**

The activity for which the permit application was submitted shall not begin until the owner/operator has received approval from the MPCA.

### **11.3. Permit Modification by MPCA**

After notice and opportunity for a hearing, this Permit may be modified, suspended, or revoked in accordance with Minn. R. 7001.0170 through 7001.0190. In the alternative, the MPCA may require the Permittee to obtain an individual permit as provided in Minn. R. 7001.0210, subp. 6.

### **11.4. Transfer of Ownership or Control**

No permit may be assigned or transferred by the Permittee without the written approval of the MPCA. In the event of any changes in control or ownership of the feedlot or manure storage area, a request for permit transfer form, signed by both parties, and a permit application form signed by the new owner, shall be sent to the MPCA at the address listed on the cover letter of this Permit. The permit application must be accompanied by updates to the plans required by Part 2 that are affected by the change in ownership or control. Any succeeding owner/operator shall also comply with the terms and conditions of this Permit. If a facility changes ownership or control without an assignment of the Permit, the original Permittee may still be held liable for violations of the permit and the new owner/operator may be held liable for operating without a permit.

### **11.5. Name Changes**

Pursuant to Minn. R. 7020.0405, subp. 4. Item A, the Permittee shall submit to the MPCA documentation of the name change, on a form provided by the MPCA, and the MPCA shall issue a permit modification reflecting the new name.

## **12. Continued Permit Coverage**

In order to maintain the required permit coverage for the facility, the Permittee shall provide a complete permit application to the MPCA for issuance of coverage under a subsequent general permit at least 180 days before the permit expiration date identified on page 1 of this Permit.

### **12.1. Continued operation under expired permit**

Pursuant to Minn. R. 7001.0160, if the Permittee has provided a timely application for issuance of coverage under the new general animal feedlot NPDES permit, the Permittee may continue to conduct the activities authorized by this Permit, in compliance with the requirements of this Permit, until the MPCA takes final action on the application, unless the MPCA determines that any of the following are true:

- a) The Permittee is not in substantial compliance with the requirements of this Permit, nor with a stipulation agreement or compliance schedule designed to bring the Permittee into compliance with this Permit;
- b) The MPCA, as a result of an action or failure to act by the Permittee, has been unable to take final action on the application on or before the permit expiration date; or
- c) The Permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.

## 13. General Conditions

### 13.1. Submittals to MPCA

The Permittee shall submit all notifications, reports, and other correspondence required to be sent to the MPCA by a condition of this Permit to the address, facsimile number, telephone number, or electronic mail address indicated on the cover letter provided with this Permit. The permit and registration numbers should be indicated on all correspondence with the MPCA. When requested, the Permittee shall submit the information to the MPCA on a specified form or in a specified format, including electronic submission.

#### 13.1.1. Authorized Representative.

All reports required by this Permit and other information requested by the MPCA shall be signed and certified by the Permittee or by a duly authorized representative. A person is a duly authorized representative only if:

- a) The authorization is made in writing by the Permittee or owner(s) and submitted to the MPCA; and
- b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility.

#### 13.1.2. Certification.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly 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."

The Permittee shall not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the MPCA by this Permit. The Permittee shall immediately upon discovery report to the MPCA an error or omission in these records, reports, plans, or other documents.

## **13.2. Permit Eligibility Limitations.**

### **13.2.1. Individual NPDES Permit.**

An owner of a facility must obtain coverage under an individual NPDES permit when any of the following apply:

- a) a schedule of compliance is required to address a pollution hazard;
- b) special conditions are required as the result of environmental review;
- c) the owner is proposing to employ a "new technology" for construction or operation which is not addressed by this Permit;
- d) removal of bedrock is proposed to comply with site restrictions under Minn. R. 7020.2100;
- e) the owner is proposing to broker/sell feed for animals;
- f) the facility, including the feed storage area, does not meet the design standards of Minn. R. ch. 7020 and this Permit;
- g) the MPCA determines that the facility operations would be more appropriately controlled by an individual permit as provided in Minn. R. 7001.0210, subp. 6;
- h) the owner is proposing to apply liquid manure to frozen or snow-covered soils during other than the emergency conditions outlined in Part 4.5.11.2 of this Permit; or
- i) the owner is proposing to use a VIB to control runoff from an open lot or manure storage area.

## **13.3. Request to Terminate Permit Coverage**

If the Permittee desires to terminate coverage under this Permit, the Permittee shall submit the termination request to the MPCA on a form provided by the commissioner at least 30 days in advance of the desired permit coverage termination date. If the MPCA determines, via facility inspection, that NPDES permit coverage is not required, coverage under this Permit will terminate upon receiving written approval of the termination request from the MPCA.

It should be noted that if the facility is capable of holding 1,000 animal units or more, or the manure storage area capable of storing the manure generated by 1,000 or more animal units, the Permittee will be required to apply for coverage under a SDS permit.

## **13.4. General Conditions**

### **13.4.1. Minn. R. 7001.0150 subp. 3.**

Pursuant to Minn. R. 7001.0150, subp. 3 the following general conditions are incorporated into this Permit.

13.4.1.1. *Compliance with other laws*

The agency's issuance of a permit does not release the Permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.

13.4.1.2. *Future rules and standards*

The agency's issuance of a permit does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the Permittee.

13.4.1.3. *Property right*

The permit does not convey a property right or an exclusive privilege.

13.4.1.4. *Agency obligation*

The agency's issuance of a permit does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

13.4.1.5. *Permitted actions*

The Permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications approved by the agency and in compliance with the conditions of the permit.

13.4.1.6. *System reliability*

The Permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the Permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The Permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.

13.4.1.7. *False information*

The Permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the agency or to the commissioner by the permit. The Permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents.

13.4.1.8. *Submittals*

The Permittee shall, when requested by the commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.

13.4.1.9. *Right of Entry*

When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the Permittee to enter at reasonable times upon the property of the Permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit.

13.4.1.10. *Steps to minimize non-compliance impacts*

If the Permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the Permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

13.4.1.11. *Non-compliance notification*

If the Permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the Permittee shall, within 24 hours of the discovery of the noncompliance, orally notify the commissioner. Within five days of the discovery of the noncompliance, the Permittee shall submit to the commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

13.4.1.12. *Non-compliance report*

The Permittee shall report noncompliance with the permit not reported under item 13.4.1.11 as a part of the next report which the Permittee is required to submit under this Permit. If no reports are required within 30 days of the discovery of the noncompliance, the Permittee shall submit the information listed in item 13.4.1.11 within 30 days of the discovery of the noncompliance.



13.4.1.13. *Advance notice of potential non-compliance*

The Permittee shall give advance notice to the commissioner as soon as possible of planned physical alterations or additions to the permitted facility or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.

13.4.1.14. *Permit transfer*

The permit is not transferable to any person without the express written approval of the agency after compliance with the requirements of Part 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.

13.4.1.15. *Liability*

The permit authorizes the Permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency assume no responsibility for damage to persons, property, or the environment caused by the activities of the Permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

13.4.2. Duty to Prevent and Mitigate.

Pursuant to Minn. Stat. § 115.061, the Permittee shall notify the agency immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

13.4.3. Need to Halt or Reduce Activity Not a Defense.

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

13.4.4. Civil and Criminal Liability.

Nothing in this Permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance with the terms and conditions provided herein.

13.4.5. Severability.

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

**13.4.6. Discharge Monitoring Reports.**

This Permit requires the submittal of annual reports in lieu of discharge monitoring reports as the Permittee is not authorized to discharge to surface waters except as provided in Minn. R. 7020.2003, subp. 2, which references 40 CFR pt. 412.

**13.4.7. Availability of Reports.**

Except for data determined to be confidential under Minn. Stat. § 116.075, subd. 2, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the offices of the MPCA. Procedures for submitting such confidential material shall be pursuant to Minn. R. 7000. Monitoring data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Minn. Stat. § 115.071, subd. 2.

## Appendix A

### Definitions

This Appendix contains the definitions of the terms used in this State of Minnesota Animal Feedlot Permit.

1. **"Agency"** means the Minnesota Pollution Control Agency, as constituted pursuant to Minn. Stat. § 116.02
2. **"Act"** means the federal Clean Water Act, as amended, 33 U.S. Code 1251, et seq.
3. **"Agency Staff"** means the staff of the Minnesota Pollution Control Agency.
4. **"Agricultural Stormwater Discharge"** means a precipitation-related discharge of manure, litter or process wastewater from land areas under the control of a CAFO where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, as specified in 40 CFR § 122.42(e)(1)(vi)-(ix).
5. **"Anaerobic Digester"** means a liquid manure storage area that is constructed with the intent to capture and combust gas emissions resulting from the digestion of waste by microbes in anaerobic conditions. An anaerobic digester is a LMSA and is required to comply with all requirements applicable to LMSAs. Requirements specific to anaerobic digesters will be noted when applicable.
6. **"Animal Feeding Operation" ("AFO")** means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility [40 CFR § 122.23(b)(1)].
7. **"Animal Feedlot"** means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosures. For the purposes of this Permit, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Permit.
8. **"Animal Manure" or "Manure"** means poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.
9. **"Animal Unit"** means a unit of measure used to compare differences in the production of animal manure and set forth in Minn. R. pt. 7020.0300, subp. 5.
10. **"Approved Plans"** means any new or revised plans that are required by this Permit that received approved from the MPCA.
11. **"Best Management Practices" ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

12. **"Bypass"** means an intentional diversion of a waste stream from any portion of the facility.
13. **"Closure"** refers to the cessation of use of all or any part of the facility, including:
  - a) The removal of livestock or poultry from all or any of the animal holding areas located within the production area; and
  - b) The discontinuation of a structure or area located within the production area to handle, store, or treat manure.
14. **"Coarse-textured Soil Land"** means fields that have at least 33 percent of the surface soil and/or subsoil (within three (3) feet of the surface) with one of the following soil texture types: sand, loamy sand, loamy coarse sand, fine sand, loamy fine sand, coarse sand, or very fine sand.
15. **"Commencement of Construction"** means to begin or cause to begin, as part of a continuous program, the placement, assembly, or installation of facilities or equipment; or to conduct significant site preparation work, including clearing excavation or removal of existing buildings, structures, or facilities, necessary for the placement, assembly, or installation of facilities; or equipment at a new or expanded animal feedlot or a new, modified, or expanded manure storage area.
16. **"Commissioner"** means the Commissioner, or other MPCA staff authorized by the Commissioner, of the MPCA, as described in Minn. Stat. § 116.03, as amended.
17. **"Concentrated Animal Feeding Operation" ("CAFO")** means an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of 40 CFR § 122.23(b)(2), or that is designated as a CAFO in accordance with 40 CFR § 122.23(c).
18. **"Corrective or Protective Measure"** means a practice, structure, condition, or combination thereof that prevents or reduces the discharge of pollutants from an animal feedlot or manure storage area to a level in conformity with MPCA rules.
19. **"Design Engineer"** means a professional engineer licensed in the state of Minnesota or a Natural Resources Conservation Service (NRCS) staff person having NRCS approval authority for the project.
20. **"Discharge"** means the addition of a pollutant to waters of the state, including a release of animal manure or process wastewater from an animal holding area, manure storage area, or a manure land application site by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or any other means. Discharge includes both point source and nonpoint source discharges.
21. **"Expansion" or "Expanded"** means construction or any activity that has resulted or may result in an increase in the number of animal units that an animal feedlot is capable of holding or an increase in storage capacity of a manure storage area.
22. **"Facility"** means an animal feedlot, a manure storage area, or an animal feedlot with a manure storage area that is subject to the Permit.

23. **"Feed Storage Area"** means a designated area at the production facility, paved or unpaved, covered or uncovered, that is utilized for storage of any materials used to create the rations for livestock. Also included are those areas used to store spoiled, spilled, or other unused rations for livestock. For purposes of this Permit, "feed storage area" does not include buildings or roofed structures that contain dry commodities, provided that precipitation does not come into contact with the commodities stored inside the structure. "Feed storage area" does not include areas used for the storage of hay bales and other absorbent materials which do not create contaminated leachate and do not create a pollution hazard.
24. **"Feed Storage Area Runoff"** means liquid that leaves the feed storage area that is the result of precipitation on the feedstocks or on the surrounding feed storage area where residual feed is present. This does not include water that flows off of the tarp/roof of a feed storage, unless that liquid is allowed to come into contact with feedstocks, residual feed, or other liquid that has come into contact with feedstocks or residual feed. This liquid is not stormwater and should not be allowed to directly enter waters of the state, tile intakes, or stormwater collection/mitigation area (stormwater ponds, etc.)
25. **"Floodplain"** means the areas adjoining a watercourse that have been or hereafter may be covered by a large flood known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.
26. **"Incorporation"** means applying manure using injection, disking into the soil, tilling the soil after application, or using other practices that result in at least 50% of the manure being placed below the ground surface within 24 hours of application and prior to rainfall.
27. **"Intermittent Stream"** means all watercourses identified as intermittent streams on United States Geological Survey quadrangle maps.
28. **"Land Application Area"** means land under the control of an AFO 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.
29. **"Liquid Manure"** means manure that is not considered to be solid manure as defined in item 49. Process wastewater as defined in item 44, and manure-contaminated runoff as defined in item 31 are considered to be liquid manure.
30. **"Liquid Manure Storage Area" ("LMSA")** means an area where liquid animal manure and process wastewaters are stored or processed.
31. **"Manure-contaminated Runoff"** means a liquid that has come into contact with animal manure and drains over land from any animal feedlot, manure storage area, or animal manure land application site.
32. **"Manure Source"** means a manure storage area that is generated from distinctly separate animal types, animal management, feed management, watering management, and/or manure management systems. Two separate manure storage areas with identical animal types, animal management, feed and watering practices, and manure management are considered as one manure source. Manure source also includes manure accumulations in animal holding areas when manure is removed from an animal holding area and directly land applied without use of a manure storage area.

33. **"Manure Storage Area"** means an area where animal manure or process generated wastewater are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding are not manure storage areas provided they are managed in accordance with Minn. R. 7020.2000, subp. 3.
34. **"MPCA"** means the Minnesota Pollution Control Agency or Minnesota Pollution Control Agency staff as delegated by the Minnesota Pollution Control Agency.
35. **"Modification"** means a change to a facility component or operational practice described, required, or authorized by a permit issued under this chapter, including an expansion. Major and minor modifications are described by Minn. R. 7020.0300, subp. 13d (major) and 14a (minor) and Minn. R. 7001.0190. Part 7020.0405, subp. 5, and ch. 7001 govern public notice of changes to permits. A change to a facility component or operational practice that is not described, required, or authorized by a permit is not a modification, including changes to:
- a) the type of crop or manure application rate if consistent with the methodology portion of the manure management plan and reflected in required records;
  - b) routine maintenance;
  - c) feeding or milking schedules;
  - d) animal diets;
  - e) bedding materials so long as consistent with approved design plans and specifications;
  - f) equipment used to clean the facility so long as consistent with approved design plans and specifications;
  - g) lands used as pasture; or
  - h) facility components not involved directly in animal or manure management such as an office or machine shed.
36. **"National Pollutant Discharge Elimination System Permit" or "NPDES"** means a permit issued by the MPCA as required by federal law for the purpose of regulating the discharge of pollutants from point sources into waters of the United States from concentrated animal feeding operations (CAFOs) as defined by federal law.
37. **"New Animal Feedlot"** means an animal feedlot or manure storage area constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously or that existed previously and has been unused for five years or more.
38. **"Overflow"** means the release of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point where manure, process wastewater, or stormwater can be contained by the structure.
39. **"Owner" or "Owners"** shall mean all persons having possession, control, or title to an animal feedlot or manure storage area as defined by Minn. R. 7020.0300, subp. 17.
40. **"Permanent Closure"** means ceasing operation of all or any part of the facility with the intent that the animal holding area(s) and/or manure storage area(s) will no longer be used for that purpose.

41. **"Permanent Stockpiles"** means a solid manure storage area where manure is stored or processed that does not meet the requirements of Minn. R. 7020.2125, subp. 2, for short-term stockpiles.
42. **"Permittee"** means the owner or owners or any person or group of persons including, but not limited to, a single individual, manager, partnership, limited partnership, cooperative, or any form of corporate entity that has possession or control or title to the feedlot subject to the permit and who is or are identified the permit as the Permittee(s).
43. **"Probability of Rainfall"** means National Weather Service statistical predictions (may be found at the website: <http://www.weather.gov/mdl/synop/products.php>).
44. **"Process Wastewater"** means waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from the production of animals, poultry, or direct products such as milk or eggs.
45. **"Production Area"** means that part of the animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, egg washing or egg processing areas, areas used for the storage and disposal/treatment of mortalities, 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, and silage bunkers. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated stormwater.
46. **"Shoreland"** means land, as defined in Minn. Stat. § 103F.205, subd. 4, located within 1,000 feet from the normal high water mark of a lake, pond, or flowage and 300 feet of a river or stream or the landward side of floodplain delineated by ordinance on such a river or stream, whichever is greater.
47. **"Short-term Stockpile"** means a manure storage area where manure is stored or processed according to Minn. R. 7020.2125, subp. 1 to 3.
48. **"Sinkhole"** means a surface depression caused by a collapse of soil or overlying formation above fractured or cavernous bedrock.
49. **"Solid Manure"** means manure that has 15 percent or more solids, can be stacked at a 3:1 vertical to horizontal ratio, and is handled as a solid product.
50. **"Spill"** means the release of manure, manure contaminated runoff, or process wastewater from the confines of an animal feedlot, manure storage area, manure transfer system, or other component used to collect, transfer, or store manure, manure-contaminated runoff, or process wastewater that if not recovered would pollute waters of the state. Spill includes releases from activities associated with land application that do not comply with this Permit.

51. **"Special Protection Area"** means land that is within 300 feet of all protected waters (lakes and streams) and protected wetlands, identified on Department of Natural Resources (DNR) protected waters and wetlands maps and intermittent streams and ditches identified on United States Geological Survey (USGS) quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.
52. **"State Disposal System Permit" or "SDS Permit"** means a state permit processed in accordance with Minn. R. 7001.
53. **"Temporary Closure"** means ceasing operation of all or part of a facility with the intent of reusing the facility or portion of the facility at a future date.
54. **"Waters of the State"** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portions of the state.
55. **"Waters of the United States"** has the meaning given under 40 CFR § 122.2.