

A. Permit Provisions and Program Elements

Oregon

Plan Review and Public Notice of Substantial Changes



The Oregon Department of Agriculture (ODA) and Oregon Department of Environmental Quality (DEQ) issue two CAFO general permits.

- Oregon CAFO [National Pollutant Discharge Elimination System \(NPDES\) General Permit #01-2016](#) (for discharging CAFOs)
- Oregon CAFO [Water Pollution Control Facilities \(WPCF\) General Permit #01-2015](#) (for CAFOs that discharge to groundwater of the state or operate a disposal system; this permit does not cover discharges to surface water).

The NPDES Permit requires public notice of updates or changes to a CAFO's animal waste management plan (AWMP). The WPCF Permit requires public notice for only new, large CAFOs.

The NPDES General Permit requires that small and medium CAFOs submit proposed AWMP changes to ODA for approval at least 45 days before implementing the proposed changes. Large CAFOs must submit proposed AWMP changes for ODA approval at least 60 days before implementing the proposed changes.

Figure 1 provides an overview of requirements for proposed changes to AWMPs, including examples of substantial and non-substantial changes. ODA public notices proposals for substantial changes for 35 days by posting proposals on the ODA and DEQ websites and emailing the proposals to the list of interested persons maintained by ODA. Interested persons includes anyone that requests to receive notifications by subscribing to the CAFO public notices listserv on ODA's [Subscriptions webpage](#). Public notice is not required for non-substantial changes to AWMPs.

Table 3: Overview of Requirements for Proposed Changes to AWMPs

	Small or Medium CAFO Electing Coverage		All Other CAFOs	
	<i>Substantial Change</i>	<i>Non-Substantial Change</i>	<i>Substantial Change</i>	<i>Non-Substantial Change</i>
Description of proposed change	<ol style="list-style-type: none"> 1. A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP. 2. An increase in maximum allowed animal numbers such that the operation becomes defined as a large CAFO. 	<p>The following are considered non-substantial provided they do not result in a substantial change:</p> <ol style="list-style-type: none"> 1. An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers. 2. When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process wastewater beyond the scope of the current AWMP. 	<ol style="list-style-type: none"> 1. Addition of new land application areas not previously included in the AWMP, unless the land application area is covered by an existing AWMP that has already been incorporated into an existing NPDES permit and the application of manure, litter, or process wastewater on the newly added land application area is in accordance with that existing NPDES permit. 2. Any changes to the field-specific maximum annual rates for land application. 3. Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop. 4. Addition of any crop or other uses not included in the AWMP and corresponding field-specific rates of application. 5. A change in the type of manure system including but not limited to switching from a dry to a liquid manure system, switching from a liquid to a dry manure system, or changing the manure system to accommodate an animal species or type of operation not included in the scope of the current AWMP. 6. Any changes that are likely to increase the risk of nitrogen and phosphorus transport to surface water or groundwater. 	<p>The following are considered non-substantial provided they do not result in a substantial change:</p> <ol style="list-style-type: none"> 1. An increase in animal numbers greater than 10% of the registrant's maximum allowed animal numbers. 2. When facility expansions, production increases, or process modifications will result in new or increased generation of waste, litter, or process wastewater beyond the scope of the current AWMP.
Timeline to submit proposal to ODA	Submit at least 45 days in advance of proposed change(s).	Submit at least 45 days in advance of proposed change(s) unless a different timeframe allowed by ODA.	Submit at least 60 days in advance of proposed change(s).	Submit at least 60 days in advance of proposed change(s) unless a different timeframe is allowed by ODA.
Public notice process	ODA will public notice as described in S1.H, p. 8.	Not required.	ODA will public notice as described in S1.H, p. 8.	Not required.
ODA approval	ODA will notify the permit registrant of its final decision concerning the proposed change(s) after the public notice period ends.	ODA will notify the permit registrant of its final decision concerning the proposed change(s) after reviewing the proposal.	ODA will notify the permit registrant of its final decision concerning the proposed change(s) after the public notice period ends.	ODA will notify the permit registrant of its final decision concerning the proposed change(s) after reviewing the proposal.

Figure 1. Table 3 from the Oregon’s NPDES CAFO General Permit Provides an Overview of Substantial and Non-substantial Changes

Under the WPCF General Permit, CAFOs must submit AWMP updates to ODA for approval at least 60 days before implementing the proposed changes unless a different schedule is allowed by ODA in writing. New, Large CAFOs not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit, are subject to public notice and a minimum 35-day public notice review period.

ODA may batch multiple public notices of proposed AWMP updates or changes to AWMPs according to Oregon’s six CAFO geographic boundaries, as appropriate. Multiple public notices allows ODA to better handle the administrative burden regarding the public noticing of AWMPs or changes to AWMPs. New

CAFOs may submit a theoretical or draft AWMP to ODA before operations begin. The new facility must revise and resubmit the AWMP approximately 12 months after the start of operation.

**Oregon Confined Animal Feeding Operation Water Pollution Control Facilities General Permit
Number 01-2015**

S3.D. Requirements for AWMP Updates and Changes

2. The permit registrant must submit AWMP updates to ODA for approval at least 60 days before implementation unless a different schedule is allowed by ODA in writing.

**Oregon Confined Animal Feeding Operation Water Pollution Control Facilities General Permit
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S1.H. What are the public notice and participation requirements for Large CAFOs not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit?

Upon submittal to ODA, the ATR (Application to Register), AWMP, and LUCS (Land Use Compatibility Statement) for a *large* CAFO are subject to public notice and a minimum 35-day public review period if the *large* CAFO is not currently covered by NPDES General Permit #01 or other NPDES or WPCF individual permit. Prior to approving permit coverage, ODA will provide for public notice as follows:

1. Notice will be made in an appropriate regional newspaper and by email to interested parties who subscribe to the ODA interested parties email notice system. The notice will describe the operation and opportunity for public comment and hearing. ODA may batch multiple ATRs or AWMPs as regionally appropriate.
2. Copies of ATRs, LUCS (when required) and AWMPs will be available for public review at ODA headquarters and field offices. If available, electronic copies of documents will be provided upon request.
3. ODA will schedule public hearings if written requests for public hearing are received during the comment period from at least ten persons or from an organization or organizations representing at least ten persons. If a hearing is scheduled, ODA will provide at least 30 days' notice before the hearing is held. The public comment period will remain open for additional comments for at least seven days after the public hearing.
4. ODA will develop a written response to relevant comments that will be made available to interested parties.

Programmatic Framework

ODA's authority to implement these requirements is derived from Oregon Revised Statutes (ORS) [Chapter 468B Water Quality](#), Subsections 468B.200 (Legislative findings) through 468B.230 (Department of Agriculture civil penalty authority) and the [Memorandum of Understanding](#) between the Environmental Quality Commission and ODA.

Implementation

Approximately 400 CAFOs are covered under the NPDES General Permit and approximately 100 CAFOs are covered under the WPCF General Permit. In 2015, ODA reviewed approximately 78 proposed changes to AWMPs, 10 of which were substantial changes and 68 were non-substantial changes. ODA conducted a public hearing on September 2, 2015 to address substantial changes to AWMPs submitted by five separate CAFOs.

References

ORS (Oregon Revised Statutes). 2015. Volume 10. Chapter 468B Water Quality.
<https://www.oregonlaws.org/ors/chapter/468B>. Accessed January 6, 2017.
