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(3) The CAFO shall attain the limitations and requirements of this paragraph as of the date of permit coverage.

(b) *For CAFO land application areas.* Discharges from land application areas are subject to the following requirements:

(1) Develop and implement the best management practices specified in § 412.4;

(2) Maintain the records specified at § 412.37 (c);

(3) The CAFO shall attain the limitations and requirements of this paragraph by July 31, 2007.

[68 FR 7269, Feb. 12, 2003, as amended at 71 FR 6984, Feb. 10, 2006]

§ 412.32 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT:

(a) For CAFO production areas: the CAFO shall attain the same limitations and requirements as § 412.31(a).

(b) For CAFO land application areas: the CAFO shall attain the same limitations and requirements as § 412.31(b).

§ 412.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) For CAFO production areas: the CAFO shall attain the same limitations and requirements as § 412.31(a).

(b) For CAFO land application areas: the CAFO shall attain the same limitations and requirements as § 412.31(b).

§ 412.34 [Reserved]

§ 412.35 New source performance standards (NSPS).

Any new point source subject to this subpart must achieve the following ef-

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fluent limitations representing the application of NSPS:

(a) *For CAFO production areas.* The CAFO shall attain the same limitations and requirements as § 412.31(a)(1) and § 412.31(a)(2).

(b) *For CAFO land application areas:* The CAFO shall attain the same limitations and requirements as § 412.31(b)(1) and § 412.31(b)(2).

(c) The CAFO shall attain the limitations and requirements of this paragraph as of the date of permit coverage.

(d) Any source subject to this subpart that commenced discharging after April 14, 1993, and prior to April 14, 2003, which was a new source subject to the standards specified in § 412.15, revised as of July 1, 2002, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1). Thereafter, the source must achieve the standards specified in § 412.31(a) and (b).

§ 412.36 [Reserved]

§ 412.37 Additional measures.

(a) Each CAFO subject to this subpart must implement the following requirements:

(1) *Visual inspections.* There must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:

(i) Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;

(ii) Daily inspection of water lines, including drinking water or cooling water lines;

(iii) Weekly inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in paragraph (a)(2) of this section.

(2) *Depth marker.* All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event, or, in the case of new sources subject to the requirements in § 412.46 of this

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part, the runoff and direct precipitation from a 100-year, 24-hour rainfall event.

(3) *Corrective actions.* Any deficiencies found as a result of these inspections must be corrected as soon as possible.

(4) *Mortality handling.* Mortalities must not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to § 412.31(a)(2) and approved by the Director are designed to handle mortalities.

(b) *Record keeping requirements for the production area.* Each CAFO must maintain on-site for a period of five years from the date they are created a complete copy of the information required by 40 CFR 122.21(i)(1) and 40 CFR 122.42(e)(1)(ix) and the records specified in paragraphs (b)(1) through (b)(6) of this section. The CAFO must make these records available to the Director and, in an authorized State, the Regional Administrator, or his or her designee, for review upon request.

(1) Records documenting the inspections required under paragraph (a)(1) of this section;

(2) Weekly records of the depth of the manure and process wastewater in the liquid impoundment as indicated by the depth marker under paragraph (a)(2) of this section;

(3) Records documenting any actions taken to correct deficiencies required under paragraph (a)(3) of this section. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction;

(4) Records of mortalities management and practices used by the CAFO to meet the requirements of paragraph (a)(4) of this section.

(5) Records documenting the current design of any manure or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity;

(6) Records of the date, time, and estimated volume of any overflow.

(c) *Recordkeeping requirements for the land application areas.* Each CAFO must maintain on-site a copy of its site-spe-

cific nutrient management plan. Each CAFO must maintain on-site for a period of five years from the date they are created a complete copy of the information required by § 412.4 and 40 CFR 122.42(e)(1)(ix) and the records specified in paragraphs (c)(1) through (c)(10) of this section. The CAFO must make these records available to the Director and, in an authorized State, the Regional Administrator, or his or her designee, for review upon request.

(1) Expected crop yields;

(2) The date(s) manure, litter, or process waste water is applied to each field;

(3) Weather conditions at time of application and for 24 hours prior to and following application;

(4) Test methods used to sample and analyze manure, litter, process waste water, and soil;

(5) Results from manure, litter, process waste water, and soil sampling;

(6) Explanation of the basis for determining manure application rates, as provided in the technical standards established by the Director.

(7) Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;

(8) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;

(9) The method used to apply the manure, litter, or process wastewater;

(10) Date(s) of manure application equipment inspection.

Subpart D—Swine, Poultry, and Veal Calves

§ 412.40 Applicability.

This subpart applies to operations defined as concentrated animal feeding operations (CAFOs) under 40 CFR 122.23 and includes the following animals: swine; chickens; turkeys; and veal calves. This subpart does not apply to such CAFOs with less than the following capacities: 2,500 swine each weighing 55 lbs. or more; 10,000 swine each weighing less than 55 lbs.; 30,000 laying hens or broilers if the facility uses a liquid manure handling system; 82,000 laying hens if the facility uses other than a liquid manure handling