

**Michigan Department of Environmental Quality  
Concentrated Animal Feeding Operations  
Questions and Answers**

As a result of ongoing input to the Concentrated Animal Feeding Operation (CAFO) permitting process, additional questions have arisen that are not covered in the Declaratory Ruling Fact Sheet dated July 11, 2005. This Questions and Answers document is intended to supplement the Fact Sheet.

**Q: How many General Permits does the Michigan Department of Environmental Quality (MDEQ) have that apply to CAFOS?**

A: The MDEQ currently has three National Pollutant Discharge Elimination System (NPDES) General Permits that apply to CAFOs – one for existing CAFOs issued December 13, 2002 (MIG440000), one for new large CAFOs issued June 11, 2004 (MIG010000), and a third one for all CAFOs issued November 18, 2005 (MIG019000). The third one replaces the first two, although the first two remain in effect for CAFOs already covered under them. Once they expire, CAFOs covered under them will need to re-apply for permit coverage, either under the third CAFO general permit or for an individual permit. The permit for existing CAFOs expires December 31, 2007, and the permit for new large CAFOs expires April 1, 2009.

**Q: What is the purpose of the MDEQ issuing yet another NPDES General Permit for CAFOs?**

A: The MDEQ rewrote the NPDES General Permit for CAFOs to clarify the effluent limitations that are established in the permit. The effluent limitations were scattered throughout the general permit, and are now consolidated in one section of the general permit, the Nutrient Management Plan (NMP). The draft general permit was subject to a stakeholders' participation project, public notice comments, and a public hearing.

**Q: Are there circumstances under which a CAFO must obtain an individualized NPDES permit?**

A: Yes. The MDEQ issued a Final Determination on February 27, 2004, that requires certain new large CAFOs to apply for individual NPDES permits. These CAFOs include those constructed to confine at least two times the number of animals that define a large CAFO and CAFOs that expand to at least 3.5 times the large CAFO number over a five-year period. In addition, any CAFO owner can apply for an individual NPDES permit. This may be applicable when situations at CAFOs arise that are not covered by the NPDES General Permit for CAFOs.

**Q: What permit will cover existing CAFOs when the existing NPDES CAFO Permit (MIG440000) expires on December 31, 2007?**

A: Existing CAFOs will be covered by the third NPDES General Permit for CAFOs (MIG019000).

**Q: When a CAFO applies for a permit, what information is public noticed on the MDEQ NPDES Web site?**

A: The information that is public noticed on the Web site is the permit application (minus facility maps and drawings), the draft NPDES permit (or COC) and, if a new discharge, the Antidegradation statement provided. A complete permit application includes the CAFO location, all proposed land application areas, and adjacent water bodies.

**Q: If land application areas are added after the CAFO permit is issued, will these be put on the MDEQ NPDES Web site?**

A: No. These are required to be sent to the appropriate MDEQ District Office, where they are kept in the facility file.

**Q: Will the Comprehensive Nutrient Management Plan (CNMP) that is submitted to the MDEQ be posted on the DEQ NPDES Web site?**

A: No. These are required to be sent to the appropriate MDEQ District Office, where they are kept in the facility file.

**Q: What is the purpose of the “Alternative Permitting Approach for CAFOs” (also known as the ECOS Agreement) or the Michigan Agriculture Environmental Assurance Program (MAEAP) option?**

A: The purpose of this five-year project is to test an alternative approach to satisfy federal and state permitting requirements and assure environmental compliance at large CAFOs. A final report with recommendations will be produced at the end of this five-year project, which is December 2007. The final report will include information relative to the environmental protection benefits of this project.

**Q: Will consideration be given to extend the ECOS Agreement beyond 2007?**

A: Yes. As part of the ECOS Agreement, the MDEQ must evaluate the demonstration project to determine if the level of environmental protection being accomplished under this project is equivalent to or exceeds what would otherwise be accomplished through a traditional permitting approach. As part of this evaluation, the MDEQ will conduct a total of 50 compliance inspections at MAEAP-verified farms in 2005 and 2006.

**Q: How many MAEAP-verified CAFOs are there today?**

A: The MDEQ knows of 60 MAEAP-verified CAFOs.

**Q: What happens after September 1, 2005, with a CAFO in the MAEAP option that has a discharge, or an animal feeding operation that expands to become a large CAFO?**

A: These CAFOs will need to submit an application to be covered by the third NPDES General Permit for CAFOs (MIG019000).

**Q: Will the NPDES permits allow for a schedule, if needed, for existing CAFOs to come into compliance with any different permit conditions?**

A: Yes. The ability to allow for schedules for existing CAFOs is in the third NPDES General permit. These schedules will be included in the Certificates of Coverage as they are issued. Schedules are allowed to achieve the required storage structure volume and to meet storage structure physical design requirements. In addition, the option exists for existing CAFOs to obtain permit coverage under an individual NPDES permit, which would allow for schedules to be tailored to their specific situation.

**Q: Can the MDEQ clarify what is required to be submitted in the NPDES CNMP?**

A: Yes. The details of what is required to be submitted are clarified in the third NPDES general permit for CAFOs. The MDEQ will also be preparing a checklist to distinguish what is required for an NPDES-compliant CNMP as opposed to the more comprehensive CNMP prepared for purposes of the MAEAP.

**Q: Is there an option for a CAFO that has no potential to discharge to not be required to get an NPDES permit?**

A: Yes. A CAFO may request a determination by the MDEQ that the CAFO has no potential to discharge pollutants to the waters of the state. If the MDEQ makes this determination, the CAFO is not required to seek coverage under an NPDES permit. The details of this process are contained in Rule 323.2196(4).

**Q: How does the agriculture storm water permitting exemption apply to the CAFO permits?**

A: This permitting exemption does not apply to CAFO permits. The Michigan permitting rules have the same exemption from permitting for agricultural storm water that the federal permitting rules have (40CFR122.3(e)). Generally speaking, the exemption states that discharges of agricultural storm water do not need NPDES permits. However, there are specific cases where the exemption does not apply, and one of them is for CAFOs.

**Q: Biosolids are similar to CAFO wastes and, in many cases, both are land applied. Are biosolids covered by NPDES permits?**

A: Yes. There is a NPDES general permit for biosolids, which presently covers about 20 permittees. In addition, about 160 permittees are covered under their individual NPDES permit for discharge, which also contains their biosolids requirements.

**Q: Do biosolids applicators have to produce an NMP?**

A: Yes. These plans are titled Residual Management Plans (RMP), and are required to be submitted and approved by the MDEQ prior to land application occurring.

**Q: Do they conduct soil tests before field application?**

A: Yes. The soil tests must be less than two years old. Extensive testing is required, including several metals (arsenic, cadmium, copper, lead, mercury, nickel, selenium, and zinc), in addition to soil nutrients.

**Q: Are the fields where land application of biosolids will occur posted on the Internet for public comment?**

A: Yes. There are about 180 municipalities that land apply biosolids in Michigan. All of these municipalities are covered by a permit from the MDEQ, with most of them under an NPDES individual permit. As part of the permit application, the permittee is required to identify all fields where land application may occur. This information is posted on the MDEQ Web site along with the draft permit for a minimum of 30 days. In addition, whenever a field is used for the first time for land application of biosolids, the generator or distributor of the biosolids is required to provide written notification not less than ten days before the initial land application activity to the MDEQ District Office, county health department, and the city, village, or township in the jurisdiction where the land application will occur.

**Q: Are landowners where land application of biosolids is taking place required to prepare CNMPs or something similar?**

A: Yes. The RMP covers all aspects of the treatment and application, and is approved by the MDEQ before any land application can occur. The requirement for plans is a common practice in the NPDES permit process. Examples of other plans include the Storm Water Pollution Prevention Plan, Illicit Connection Plan, Public Education Plan, and Pollution Minimization Plans (to address bioaccumulative contaminants of concern). The MDEQ typically requires these plans to be submitted for review and approval. The plans are also then available to the public pursuant to the Freedom of Information Act, 1976 PA 442, as amended. In general, under the federal Clean Water Act and Michigan's laws and rules, all information related to NPDES permits is available to the public unless it can be shown to be proprietary as a trade secret.

**Q: Municipal waste is likely to be more of a threat to the environment than agricultural waste, especially when considering heavy metals and other potential content.**

A: This is true in terms of raw human sewage. However, biosolids have undergone treatment in the municipal wastewater treatment facility, have been stabilized, and have been treated to reduce pathogens. In addition, there are stringent standards and testing requirements for heavy metals and pathogens for biosolids. These additional requirements are included in our Part 24 rules, Land Application of Biosolids, promulgated under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and permits that cover biosolids. Regarding agricultural wastes, manure from CAFOs is not required to be treated and can contain pathogens that infect humans, such as *Cryptosporidium*.

**Q: Is there a log of spills or problems related to agricultural entities, and a similar log related to municipal spills/releases?**

A: Yes. The Water Bureau of the MDEQ maintains a log of all such spills in an internal complaint database.

**Q: Why is there a manifest requirement for the transfer of CAFO wastes, which contain beneficial nutrients, while there is no such requirement for synthetic fertilizers? Shouldn't these be consistent?**

A: CAFO wastes are considered more similar to biosolids and septage than synthetic fertilizers. This is primarily due to the similar nutrient and physical properties, and the presence of pathogens. As such, handling of these materials is similar.

**Q: What are the design and construction requirements for waste storage structures in the third NPDES general permit?**

A: Storage structures are required to have six months' storage volume and the storage structure design must meet the Natural Resource Conservation Service's (NRCS) Practice Standard No. 313, Waste Storage Facility, dated June 2003. For existing storage structures, the applicant may demonstrate environmental performance equivalence to NRCS Standard No. 313 through an evaluation by a professional engineer. Applicants verified under MAEAP may submit the "Evaluation of Existing Components" for review by the MDEQ. After review of the evaluation, the MDEQ may request additional information from the applicant. If the applicant cannot provide acceptable design documentation or demonstration of equivalent environmental performance, then they may request a compliance date in the Certificate of Coverage (COC) to attain NRCS Standard No. 313, but that date shall be no more than three years after the COC issuance date.

**Q: When an existing storage structure is expanded, can the design and construction requirements be met by having a professional engineer demonstrate environmental performance equivalence to NRCS Standard No. 313?**

A: Yes, if it is a minor expansion that essentially leaves the existing storage structure intact and is predominately still the existing storage structure. If it is a major expansion that will result in a predominately new storage structure, then it will be considered a new storage structure and will need to meet NRCS Practice Standard No. 313, Waste Storage Facility, dated June 2003. Each expansion will have to be judged on its own merits to determine if it is minor or major.

**Q: What is the period during which six months of available waste storage capacity must be attained?**

A: The period in the third NPDES general permit is November 1 to December 31 of each year.

**Q: What are the options for a CAFO that has less than six months' storage capacity?**

A: A CAFO with less than six months' storage capacity can either request a compliance schedule in the COC that specifies when the CAFO will attain six months' storage capacity, or apply for an individual permit with a request to allow less than six months' storage capacity. An individual permit can require less than six months' storage capacity, but the CAFO must have alternate disposal methods acceptable to the MDEQ. Acceptable disposal methods may include sufficient land that meets the MDEQ's 2005 Technical Standard for the Surface Application of Large CAFO Waste on Frozen or Snow-Covered Ground without Incorporation or Injection.

**Q: Who is responsible for filing out manifests when manure is transferred to a third party applicator?**

A: The permittee is responsible for the manifest; however the manifest requires the signature of the recipient and information on the land application location or other disposal destination information.