

BRIEFING
REISSUANCE OF NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) CAFO GENERAL PERMIT NO. MIG019000

Issue

The Department of Environmental Quality, Water Bureau (DEQ-WB), is processing the reissuance of Michigan's NPDES Concentrated Animal Feeding Operation (CAFO) General Permit (Permit No. MIG019000). Two issues have generated significant comments: application rates and groundwater permits for manifested waste.

Background and Details

- This is not a rulemaking process. This is part of the process for reissuance of the NPDES CAFO General Permit. NPDES permits can be issued for a maximum of five years and must then be reissued. The process steps for this permit are:
 1. Identify stakeholders and potential issues for discussion.
 2. Convene stakeholder workgroup meetings.
 3. Develop a preliminary draft permit in response to stakeholder discussions.
 4. Solicit comments from stakeholders on the preliminary draft permit.
 5. Continue to work with stakeholders on significant issues.
 6. Revise the preliminary draft permit in response to stakeholder comments.
 7. Place the draft permit on public notice for a minimum of 30 days.
 8. Hold a public hearing.
 9. Receive and review public comments.
 10. Revise the draft permit in response to public comments.
 11. Issue the permit.
- The stakeholder workgroup included about 30 organizations, such as industry groups, individual permitted CAFOs, environmental groups, government agencies, educational institutions, and farm consultants. The stakeholder process has been an excellent method for the DEQ-WB to receive feedback and resolve issues on these types of permits before a formal process begins. The intent of the stakeholder group was to identify and discuss issues, and resolve them prior to placing a draft permit on public notice. Two meetings were held, each attended by 40 – 50 people. Based on input from the group, internal discussions, and court rulings, a preliminary draft permit was developed and sent to the stakeholder group for their review.

Two significant changes to the current CAFO NPDES General Permit are proposed:

1. Establishment of maximum annual phosphorus land application rates for individual fields based on crop type, realistic crop yield goals, and Bray P1 soil test results. Driving the phosphorus land application rates issue is the State of Michigan appeals court ruling in a lawsuit against the DEQ-WB. That ruling said, in part, that application rates must be contained in the permit itself. The DEQ-WB is engaged in ongoing discussions with Michigan State

University (MSU) and other stakeholders to develop appropriate application rates for the permit.

2. Inclusion of specific permit language to allow and appropriately regulate the use and operation of anaerobic digester-based treatment systems by CAFOs. This change has not generated significant stakeholder comment.
- In addition, the DEQ-WB is reviewing requirements regarding CAFO waste which is currently being sold, given away, or otherwise transferred by permitted CAFOs and then land applied by the waste recipient. This is referred to as manifested waste. Information compiled by the DEQ-WB shows that about 30 percent of all animal waste generated by Michigan CAFOs is being manifested. Based on the review to date, any party or person that land applies manifested CAFO waste may be required to obtain a state Groundwater Discharge Permit from the DEQ-WB. Only input on the concept of a Groundwater Discharge Permit for manifested waste was requested from the stakeholders.
 - Comments from the stakeholders are requested by September 4, 2009.

Next Steps

The DEQ-WB will carefully consider all input on the preliminary draft permit and make appropriate revisions prior to releasing the draft permit for public comment. The DEQ-WB will continue to work with MSU and other stakeholders to develop appropriate application rates for the permit and to carefully consider the need for Groundwater Discharge Permits for manifested waste.

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