



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243

Addendum to Rationale
Including
Record of Comments and Responses
(Notice of Determination)

**General State Operating Permit for
Concentrated Animal Feeding Operations (CAFOs)**

Permit No. SOPC00000

May 28, 2010

Administrative Record

The permit rationale (or fact sheet) sets forth the Division of Water Pollution Control's (division's) basis for permit conditions to be applied statewide for the issuance of the new General State Operating Permit for Concentrated Animal Feeding Operations (CAFOs), permit number SOPC00000. This CAFO General State Operating (SOP) Permit is intended to authorize the operation of a CAFO that does not discharge and that is not designed, constructed, operated or maintained such that a discharge could occur.

On December 21, 2009, the division published Public Notice #MMIX-024, which announced our intent to issue this new CAFO General State Operating Permit. Copies of the draft permit were made available in electronic format on the division's web site at http://tn.gov/environment/wpc/ppo/cafo_draftgp.shtml. On December 16, 2009, the division issued Public Notice No. PH09 – 023, which announced the public hearings as listed below:

Date	City	Location	Time
Thursday, January 28, 2010	Martin	Martin City Hall 101 University Street Martin, TN 38327 (731) 587-3126	1:00 PM CST
Tuesday, February 2, 2010	Greeneville	Greeneville Light & Power G Thomas Love Boardroom 110 North College Street Greeneville, TN 37745 (423) 639-7105	1:00 PM EST

Date	City	Location	Time
Tuesday, February 9, 2010	Shelbyville	Bedford County Courthouse 1 Public Square, Suite 101 (First Floor Courthouse) Shelbyville, TN 37160 (931) 684-7944	4:00 PM CST
Wednesday, February 10, 2010	Cleveland	Cleveland Public Library 795 Church St. Cleveland, TN 37311 (423) 472-2163	1:00 PM EST
Thursday, February 11, 2010	Livingston	Livingston City Hall 301 McHenry Circle Livingston, TN 38570 (931) 823-1269	1:00 PM CST

The division received comments through February 22, 2010, as summarized below.

Comments received and responses

- 1. Comment: The division received several comments and questions regarding specific CAFO facilities.**

Response: The public notice and comment period were established to receive comments on the draft permits, SOPC00000 and TNA000000. Comments related to water quality concerns regulated by the draft permits were considered in the final permit actions. Comments related to a specific facility could not be factored into the final permit determination. However, the division is interested in hearing any comments that the public may have regarding water quality concerns. Water quality related comments regarding a specific operation should be directed to the local Environmental Field Office (EFO) by calling 1-888-891-TDEC.

- 2. Comment: Who makes sure that chemicals such as antibiotics and hormones do not pass from hog waste into lagoons?**

Response: This is a no discharge permit, so no discharges of wastewater are authorized under this permit. Furthermore, the division does not have specific numeric water quality criteria in its water quality standards that can be used in limiting discharges of antibiotics or hormones in animal waste.

- 3. Comment: Who monitors the rules for dead animal disposal and daily measuring of the lagoons to assure no overflow?**

Response: The division periodically inspects facilities to ensure compliance with permit requirements. Mortality management and waste levels in lagoons/ponds are just two of the factors that inspectors look at to determine compliance. The division also investigates complaints including reports of waste discharges. In addition, the permit requires permittees to keep records documenting weekly visual inspections of "...wastewater containment structures noting the liquid level in the containment structures," and to keep, "Weekly records of the depth of the manure and process wastewater in the liquid containment structure as indicated by the required depth

marker. Note that the depth marker in the liquid waste containment structure will not include any storage volume for a design storm as no storm water is allowed to enter the liquid waste containment structure.”

4. Comment: The division received several comments over concern about odor from CAFOs.

Response: The division does not regulate odor from CAFOs and is of the understanding that there are currently no odor regulations for CAFOs. The Division of Air Pollution Control may be contacted at the following address regarding questions about odor regulations:

Barry R. Stephens, Director
Tennessee Department of Environment and Conservation
Division of Air Pollution Control
401 Church St.
9th Floor L&C Annex
Nashville, TN 37243
(615) 532-0554

5. Comment: The division received several comments that concerned water contamination from CAFOs.

Response: CAFOs operated in compliance with this permit and all other state and federal rules and regulations should not contribute to contamination of water sources. CAFOs found to be contributing to the contamination of surface water may have to revise their nutrient management plan (NMP) to address the contamination or may be required to institute additional controls or to seek alternate permit coverage.

6. Comment: How do CAFOs dispose of mortalities?

Response: Poultry operations typically compost mortalities while swine operations have historically used rendering although there is starting to be a shift to composting swine mortalities. Other practices may include burial or incineration. All mortality disposals must meet the requirements of NRCS conservation practice standard 316 (Animal Mortality Facility).

7. Comment: How do you compost mortalities? Once composted what do you do with the finished compost?

Response: Composting of animal mortalities must meet the requirements of NRCS conservation practice standard 317 (Composting Facility). Mortalities are layered with a bulking material, such as saw dust, in the compost pile. New mortalities may be added with additional bulking material, as needed. The compost pile is monitored and managed to achieve certain criteria, including moisture content and temperature, and will occasionally be turned/aerated to help maintain the necessary criteria. Finished compost may then be land applied in accordance with the requirements of NRCS conservation practice standards 590 (Nutrient Management) and 633 (Waste Utilization).

8. Comment: How do you monitor swine waste disposed of in under-barn pits?

Response: Permittees are required to maintain records the liquid levels in their pits to ensure adequate capacity. All waste stored in under-barn pits must also be handled in accordance with the requirements of the CAFO's permit and their approved NMP.

9. Comment: What are the restrictions on transferring poultry litter to third-parties?

Response: Any poultry operation is allowed to transfer poultry litter to a third-party. However, the following restrictions apply to operations that transfer more than 100 tons of manure, litter or process wastewater per year must adhere to the following requirements, as listed in subpart 4.8 of the permit.

- a) *Provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis, consistent with 40 CFR § 412; and*
- b) *Ensure that the recipient sign the Agreement for the Removal of Litter, Manure and/or Process Wastewater from an AFO using the form in Appendix B below. The permitted CAFO must keep a copy of the signed Agreement along with other records required by this permit, per subpart 5.2 below.*

In addition, CAFOs that transfer 100 tons of manure, litter or process wastewater to a third party must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to a third party using the form in Appendix C below.

10. Comment: What does an operation do if their lagoon levels get too high?

Response: This permit does not authorize operations with open wastewater containment structures, such as lagoons. Covered wastewater containment structures are designed such that a discharge cannot occur. These structures are designed to store the wastewater that will be produced from a facility that follows the specifications of the facility's NMP and the wastewater containment structures include an extra freeboard allowance. Facilities then periodically pump wastewater out of their containment structures, according to the requirements of their NMP, for land application or transfer to a third-party. A discharge from a covered wastewater containment structure would be a violation of this permit.

11. Comment: Why does the state require permits for CAFOs?

Response: Tennessee's Water Quality Control Act requires that operations that have the potential to impact waters of the State of Tennessee be permitted by the Department of Environment and Conservation. CAFOs have the potential to impact waters of the state and are identified as one of the activities requiring a permit.

12. Comment: Section 1.6.1. Notice of Intent (NOI) – You should add “do one of the following” after “Upon completing NOI review, the division will” in order to clarify the actions.

Response: This recommended change was made to the final permit.

- 13. Comment:** **Section 1.8.1. Notice of Termination – You should add the language below after the existing language in order to clarify the process requirements (adapted from Tennessee’s General NPDES permit for discharges of storm water associated with construction activities):**

The CAFO operator must retain permit coverage until the facility, or the portion of the facility, requesting permit coverage termination is properly closed in accordance with the facility’s plan requirements established in Section 4.9.

When the initial permittee ceases to have operational control over the permitted facility, the termination of coverage will be effective when the replacement NOC has been issued to the new operator (transfer of coverage) according to requirements in Sections 1.7.1 and 2.1.4.

The division will review NOTs for completeness and accuracy and, when necessary, investigate the CAFO for which the NOT was submitted. Upon receiving the NOT, the Division will prepare and transmit a notification the NOT form was received and is under review. If all conditions have been met, the Division will notify the permittee of approval of the NOT. If there are deficiencies with the NOT, the Division will notify the applicant of needed changes to their NOT submittal. If all conditions have not been met, the Division will deny the request for termination of coverage under this general permit. A NOT is not final until accepted by the Division.

The Division retains the right to deny termination of coverage under this general permit upon receipt of the NOT. If the EFO has information indicating the permit coverage is not eligible for termination, written notification will be provided that permit coverage has not been terminated. The notification will include a summary of existing deficiencies.

Response: The following language was added to the referenced section:

The CAFO operator must retain permit coverage until the facility is properly closed in accordance with the facility’s NMP and the requirements established in subpart 4.9 below of this permit.

The division will review termination requests for completeness and accuracy and, when necessary, investigate the CAFO for which termination was requested. If all conditions have been met, the division will notify the permittee of approval of the termination request. If there are deficiencies with the termination request, or if the division has information indicating the permit coverage is not eligible for termination, the division will notify the applicant of needed changes. If all conditions have not been met, the division will deny the request for termination of coverage under this general permit and will provide

written notification that permit coverage has not been terminated. Permit coverage termination is not final until accepted by the division.

The division retains the right to deny termination of coverage under this general permit upon receipt of the NOT.

- 14. Comment:** **Section 2.1.1. Existing Site – Language should be included also explaining necessary change of coverage from the General NPDES Permit for Class II CAFOs, not solely an individual NPDES permit.**

Response: The section was modified to clarify the application requirements for previously permitted facilities. It now states:

Existing operations, including those that were covered under the General NPDES Permit for Class II Concentrated Animal Feeding Operation (permit number TNA000000) that meet the definition of a CAFO and that do not discharge and are not designed, constructed, operated or maintained such that a discharge could occur must seek coverage under this permit per the application requirements of subpart 1.6. Applications must be submitted not more than 30 days following the effective date (June 1, 2010) of this permit. For an existing site presently permitted under an individual permit, an application shall be submitted 180 days before the individual permit expires.

- 15. Comment:** **Section 3.1.e) All Other CAFOs – Is the exclusion that prohibits direct contact of confined animals with waters of the state only applicable during the confinement period? Since by definition, a CAFO is a facility that confines the animals for at least 45 days a year, this line needs clarification. It is recommended to add “at any time” to the end of this sentence so as not to be interpreted as applying solely to those days of confinement.**

Response: Section 3.1.e) requires that the NMP include measures so as to prevent the direct contact of **confined** animals with waters of the state. This means that the confinement areas must be located away from waters of the state.

- 16. Comment:** **Section 4.6.1.b) General Requirements – Remove the following: “(other than discharges associated with proper operation and maintenance of the CAFO)” since facilities covered under this general SOP are prohibited from discharging.**

Response: This item is addressing the transfer of waste to under-floor pits, not discharges from the operation. Waste transfer associated with proper operation and maintenance of the CAFO, to under-floor pits are authorized by this permit. This section was edited to clarify its applicability and now states:

All waste transfers to under floor waste pits shall be composed entirely of wastewater from the proper operation and maintenance of a CAFO. The disposal of any materials (other than waste transfers associated with proper operation and maintenance of the CAFO) into the containment structures is prohibited by this permit.

17. Comment: Section 4.6.1.d) General Requirements – Remove the following language: “and which could reasonably have resulted from waste management at the facility.” Removal of this portion ensures the Division will be notified regarding any significant wildlife kill or die-off and provide the Division the discretion to determine if the event was a result of activities at the facility.

Response: This recommended change was made to the final permit.

18. Comment: Section 4.6.2.b) Land Application of Animal Waste – Manure analysis for nitrogen and phosphorus should be conducted more frequently when the facility is adjacent to nutrient impaired waters. It is critical to know if a facility is causing or contributing to a condition of pollution and be able to take corrective actions immediately. It is recommended a facility adjacent to waters impaired for nutrients be required to perform manure analysis for Total Nitrogen and Total Phosphorus on waste which is land applied on a quarterly basis.

Response: Manure, litter, or process wastewater from CAFOs is typically land applied based on crop needs centered around when the crop is planted; typically there is no land application of waste during November, December, January, and February. Manure analysis during the periods of no land application would be an unnecessary requirement and would not yield any useful information as relates to water quality. In addition, the nutrient content of manure, litter, or process wastewater will not significantly change from month-to-month, unless an operator changed the animal inputs, such as feed and/or supplements. The manure analysis frequency requirement will remain annual.

19. Comment: Section 4.6.2.d) Land Application of Animal Waste – The setback should be 150 feet. Should also include additional requirements to protect for water quality and adjacent properties:

- Application can be no closer than 100 feet from the CAFO property line.
- Application can be no closer than 200 feet from waters impaired by pathogens or nutrients.

Response: A setback of 100 feet from down-gradient surface waters, open tile line intake structures, sinkholes, agricultural wells, or other conduits to surface waters is the appropriate distance based on guidelines established in NRCS Conservation Practice Standard 590 (Nutrient Management).

20. Comment: Section 4.6.2.f) Land Application of Animal Waste – Replace with the following language to clarify when application is restricted:

There must not be land application of nutrients, including manure, litter or process waste water within 24 hours of a precipitation event which may cause runoff from the land application area. Application of waste to flooded ground, saturated soils, or frozen ground is prohibited.

Response: This subsection has been modified based on this recommendation. The final language reads as follows:

There must not be land application of nutrients, including manure, litter or process waste water, within 24 hours of a precipitation event that may cause runoff from the land application area. The operator shall not land apply nutrients to frozen, flooded, or saturated soils.

- 21. Comment:** Section 4.6.2. Land Application of Animal Waste – Add a new subsection with the following additional requirement:

There can be no summer application of solid or liquid waste to harvested crops unless cover crop is planted for the remainder of the growing season.

Response: The timing of land application of animal waste and crop planting schedules are a part of a facility's NMP, which must be reviewed and approved by the TDA prior to issuance of a facility's notice of coverage (NOC). Any land application of animal waste that doesn't follow the facility's NMP is a violation of the facility's permit coverage. In addition, this section already contains a requirement that "Application rates for manure, litter, or other process wastewater applied to land under the ownership or operational control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface waters..." Additional restrictions are not required.

- 22. Comment:** Subpart 4.8. Transfer to Third Party – The opening paragraph should ensure land application is addressed unless the entirety of the waste produced on-site is removed. TCWN recommends the following language replace the first sentence:

In cases where CAFO-generated manure, litter, or process wastewater is sold or given away in its entirety to be used for land application activities that are not under the control of the permitted CAFO, land application does not need to be addressed in the permitted CAFO (C)NMP.

Response: This recommended change was made to the final permit.

- 23. Comment:** Section 4.9.c) Closure Plan – The "later date" for which any earthen basin not in use may come back into use must have a limit. The permittee must be required to close the basin if it is not to be used within the next 12 months.

Response: This section allows for the maintenance of an earthen basin that is not in use, provided that the permittee "maintain(s) the structure as though it were actively in use, to prevent compromise of structural integrity." Proper maintenance of the earthen basin should protect the quality of surface water and groundwater resources. Additional restrictions in this section are not needed.

- 24. Comment:** Section 4.10. Mortality Management – In addition to compliance with NRCS conservation practice standard 316, TCWN requests additional mortality management requirements be included to protect water quality from pollutants associated with agricultural mortality. Burial and disposal pits must be outside

of the 100-year floodplain and at least 300 feet from surface waters or conduits to surface waters. If this is not feasible, the permittee must use incineration or composting as means of mortality management.

Response: NRCS Conservation Practice Standard 316 (Animal Mortality Facility) requires the following for all animal mortality facilities: "Locate the facility above the 100-year floodplain; however, if site restrictions require location within a floodplain, protect the facility from inundation or damage." This standard further requires, "Where seepage from mortality facilities will create a potential water quality problem and it is deemed necessary to reduce seepage, use AWMFH (Agricultural Waste Management Field Handbook), Appendix 10D, for clay liner design criteria, or other acceptable liner technology." No additional requirements are necessary.

However, the division did add a requirement to this section to prohibit the discharge of pollutants to waters of the state from permitted CAFO mortalities. Section 4.10 now reads as follows:

The permittee must ensure proper management of mortalities (i.e. dead animals) so that they are not disposed of in a liquid manure, stormwater, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities. Mortalities must be handled in such a way as to prevent the discharge of pollutants to surface water. At a minimum, the requirements of NRCS conservation practice standards 316 (Animal Mortality Facility) and 317 (Composting Facility) must be followed, as applicable.

25. Comment: Section 5.1. Inspections – Include the following language at the end of this section in accordance with EPA's national effluent limitations guideline (Federal Register, Vol. 68, No. 29):

Correct any deficiencies found as a result of daily and weekly inspections as soon as possible.

Response: This recommended change was made to the final permit.

26. Comment: Appendix B. Subsection H. Agreement for the Removal of Litter, Manure, and/or Process Wastewater from an AFO – Proper setback limits are necessary in this subsection. TCWN recommends the following:

A buffer zone of 100 feet is required between the application sites and adjacent streams, lakes, ponds, sinkholes, springs and wells.

Response: The division does not have the regulatory authority to require third-party recipients of manure, litter, or process wastewater to implement buffer zones.

27. Comment: Appendix B. Subsection I. Agreement for the Removal of Litter, Manure, and/or Process Wastewater from an AFO – Proper application restrictions are necessary in this subsection. TCWN recommends the following:

There must not be land application of nutrients including manure, litter or process waste water, within 24 hours of a precipitation event which may cause runoff from the land application area. Application of waste to flooded ground, saturated soils, or frozen ground is prohibited.

Response: The division does not have the regulatory authority to require third-party recipients of manure, litter, or process wastewater to restrict their land application timing.

28. Comment: The Notice of Intent (NOI) needs to be revised to include boxes to indicate which general permit the applicant is applying for, SOP or NPDES.

Response: The NOI has been revised to allow the applicant three choices for the type of permit application they are submitting.

29. Comment: Revise the "Agreement for the Removal of Litter, Manure and/or Process Wastewater from an AFO" to include the amount (tons) of litter removed.

Response: The Agreement for the Removal of Litter, Manure and/or Process Wastewater from an AFO (Agreement) was revised to include space to record the amount of waste removed.

30. Comment: Revise Item H of the Agreement for the Removal of Litter, Manure and/or Process Wastewater from an AFO to specify the length (in feet) buffer zone from wells, receiving streams, schools, residencies and property lines.

Response: Item H of the Agreement was revised to include NRCS recommended non-application buffer widths for wells, waterbodies, public use areas, and residences.

31. Comment: More training on the permit requirements is needed.

Response: The division will be working with the USDA NRCS to help educate and train NRCS staff regarding CAFO permit requirements. Division staff are always available to answer questions regarding permit requirements and to help producers maintain compliance with their CAFO permits.

32. Comment: Operators do not know if a permit is necessary. How does the division reach them and educate them?

Response: CAFO permitting was instituted in the State of Tennessee in 1999. It is unlikely that producers do not know about the requirements. However, the division does maintain a webpage, available at: <http://tn.gov/environment/permits/cafo.shtml>, which provides information about permit applicability and requirements. In addition, the division has worked with the Tennessee Department of Agriculture, the USDA NRCS, University of Tennessee Extension, and the Tennessee Farm Bureau regarding CAFO permit requirements and regulations; in turn these agencies educate their community regarding CAFO regulations.

33. Comment: What are examples of no discharge systems? How does somebody know which permit they need to apply for?

Response: No discharge systems are operations that are designed, constructed, operated or maintained such that a discharge could not occur. Examples include poultry operations with dry waste management and swine operations with under barn waste pits. Any operation with a liquid waste management system desiring coverage under this permit would have to have their liquid waste management system covered in a way that would prevent all rainwater from entering the waste storage facility (i.e. a covered waste tank or lagoon).

References to process wastewater impoundments, such as those found in subpart 5.1 (Inspections) which stated, "Weekly inspections are also required for the manure, litter, and process wastewater impoundments, noting the liquid level in the impoundments." were changed to be listed as wastewater containment structures to clarify that such waste storage systems must have a covering to prevent the introduction of stormwater into the waste storage system. Subpart 5.1 now states, "Weekly inspections are also required for the manure, litter, and process wastewater containment structures (ex: under-barn pits, covered lagoons) noting the liquid level in the containment structure. "

Should a CAFO owner/operator have a question about which permit they need to apply for they should contact the division for assistance. The division can be reached by calling 1-888-891-TDEC.

34. Comment: What are the fees associated with the permit? With the different permit types?

Response: There are no fees associated with this general SOP. Facilities covered under this permit (SOPC00000) or under the General SOP for Medium-Sized Discharging CAFOs (SOPCD0000) will not require any fees. Facilities that meet the definition of a Class I CAFO that are designed such that a discharge could occur will have to obtain an Individual NPDES permit, which currently has an annual maintenance fee of \$350.

35. Comment: The division should send the permittees a copy of the permit with their NOC.

Response: Upon issuance of this permit the division will send current permittees a copy of the general SOP that the division believes is applicable for that facility, and a partially completed NOI, along with instructions and deadlines for applying for permit coverage.

36. Comment: How does the SOP work?

Response: A State Operating Permit (SOP) is implemented in much the same way as an NPDES permit. Permittees may expect their permit tracking numbers to change, but both SOP and NPDES permits have the same basic requirements and are instituted in a similar manner. However, SOPs are not subject to EPA review.

37. Comment: The table listing the animal numbers should separate ducks (liquid) from ducks (dry).

Response: The list of animal types and numbers, provided in subpart 1.3 of this permit, permit number SOPC00000, was updated to ensure that it matched the categories listed in 40 CFR 122.23 (Concentrated animal feeding operations).

38. Comment: Section 4.6.2.d), Land Application of Animal Waste, should be revised to remove the word “heads” following agricultural well.

Response: This recommended change was made to the final permit.

39. Comment: Rainfall monitoring is not a land use requirement and should go somewhere else.

Response: Section 4.1.3. Rainfall monitoring has been moved to appear as subpart 4.2.

40. Comment: Subpart 4.3.1., Discharge Notification, requires the submission of a permit application for coverage under an alternate permit if there has been a discharge. Would a permittee be required to do this if they fix the problem so that the discharge never should happen again?

Response: No. If a facility covered under this permit (SOPC00000) has a discharge, but then institutes measures to ensure that such a discharge could not recur, the facility would not have to seek coverage under an alternate permit. In addition, internal discussions revealed the need to remove subpart 4.3 (Discharge Requirements) and Appendix D (Discharge Report Form) from the final permit. As no discharges are authorized under this permit, there is no need to have discharge sampling requirements in the permit. A discharge from a facility covered by this permit (SOPC00000) would be considered noncompliance and would be subject to the requirements of subpart 6.18 (Noncompliance) of the permit. Note that subpart 6.18 was modified to reflect the reporting requirements for a facility with a discharge.

41. Comment: The Tennessee Department of Agriculture requested that they not be sent copies of the annual report.

Response: Subpart 5.3 was updated to show that in addition to submitting a copy of their annual report to the appropriate EFO, that facilities covered under this permit must submit a copy of their annual report to the Nashville Central Office Enforcement and Compliance Section at the address listed below:

**Tennessee Division of Water Pollution Control
Enforcement and Compliance Section
Attention: Compliance Review
6th Floor L & C Annex
401 Church Street
Nashville, TN 37243**

42. Comment: A definition for a “rainfall event” needs included in the permit.

Response: The following definition for a “rainfall event” was added to the final permit:

*A **rainfall event** is defined as any occurrence of rain, preceded by 10 hours without precipitation that results in an accumulation of 0.01 inches or more. Instances of rainfall occurring within 10 hours of each other will be considered a single rainfall event. Ten -year, 24-hour rainfall event, 25-year, 24-hour rainfall event, and 100-year, 24-hour rainfall event are mean precipitation events with a probable recurrence interval of once in 10 years, or 25 years, or 100 years, respectively, as defined by the National Weather Service in Technical Paper No. 40, “Rainfall Frequency Atlas of the United States,” May, 1961, or equivalent regional or state rainfall probability information developed from this source.*

43. Comment: A definition for a “discharge” needs included in the permit.

Response: The following definition for a “discharge” or “discharge of pollutant” was added to the final permit:

***Discharge or discharge of a pollutant** refers to the addition of pollutants to waters from a source.*

44. Comment: Subpart 6.6 (Planned Changes) needs edited to clarify redundant language for requirements that were listed in subpart 3.2.d (NMP Implementation) of the permit.

Response: Subpart 6.6 was edited and now reads as follows:

The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition to a permitted facility is considered a new source per 1200-4-5-.02 (54).

45. Comment: It isn’t clear if a closure plan is required as part of the CAFO’s permit application.

Response: Section 1.6.2 (Nutrient Management Plan) was broken into two sections to separate the NMP requirements and the closure plan requirements and now reads as follows:

1.6.2. Nutrient Management Plan (NMP)

All CAFOs wishing to obtain coverage under this permit must develop and submit a site-specific NMP with the NOI, in accordance with the requirements of part 3 below.

1.6.3. Closure Plan

Operators wishing to obtain coverage under this permit must also submit a closure/rehabilitation plan for the waste system storage/treatment structures

that meets or exceeds NRCS technical standards and guidelines, and at a minimum, addresses maintenance of the facility until proper closure is completed and includes a proposed schedule for closure not to exceed 360 days, in accordance with the requirements of subpart 4.9 below.

In addition, the following language was added to section 2.3.1 (Content) as paragraph e):

A copy of the closure plan for the CAFO;

Finally, a check box for a closure plan was added to the NOI form, to remind the applicant that they must submit a closure plan in addition to an NOI and NMP as part of their permit application.

46. Comment: Should the effective date referenced in subpart 4.4 (Schedule of Compliance) be for the effective date of a CAFO's NOC?

Response: Yes, this subpart has been corrected and now reads, "*Full compliance and operational levels shall be attained from the effective date of a permittee's Notice of Coverage.*"

Determination

In conclusion, the comments included in this notice of determination document were compiled based on their relevance to the permit content, intent and interpretation of this permit, rather than implementation of the permit conditions (e.g. penalty evaluations, appropriateness of various enforcement measures, development of TMDLs, etc.). Those questions or comments that became a moot point as a result of the changes made in the final permit were not included in this document. Typographical errors and changes due to document editing were also not included in this document.

The division's decision on this matter is to issue the General State Operating Permit for Concentrated Animal Feeding Operations (CAFOs), Permit No. SOPC00000.

DATE: 5/28/2010



Vojin Janjić
Manager, Permit Section