



Jeremiah W. (Jay) Nixon, Governor • Mark N. Templeton, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

December 7, 2009

NIEBRUEGGE BEEF
EMILY NIEBRUEGGE
9696 B HIGHWAY
BUNCETON, MO 65237

RE: Renewal of your Concentrated Animal Feeding Operation (CAFO) permit.

Dear Permit Holders:

On February 23, 2011 your Concentrated Animal Feeding Operation (CAFO) general permit with the Missouri Department of Natural Resources (department) will expire. Recent changes to Missouri's CAFO regulation may require your immediate attention for you to maintain compliance with state and federal regulation. The purpose of this letter is to provide you key information about changes and steps that you may need to take now in order to complete a timely renewal of your CAFO permit in 2011. Please give it careful attention.

In December 2008, the Environmental Protection Agency (EPA) made changes to federal CAFO regulations that the department is currently working to address in state rules. Of primary importance, the recent changes will require that:

1. Prior to the renewing of your permit in February 2011, all permitted CAFOs must develop and submit a Nutrient Management Plan (NMP) with their permit application.
2. Each CAFO will have to make an informed choice as to whether the facility should be covered under a state or federal permit.

Shown below is additional information pertaining to these two changes along with information about timely submittal of your CAFO annual report, I ask that you carefully review each one. In addition to this letter, attached you will find a fact sheet with additional pertinent information related to these changes.

Nutrient Management Technical Standard (NMTS)

Future CAFO permits will require permittees to comply with the newly developed CAFO "Nutrient Management Technical Standard". The department along with the University of Missouri-Extension and the United States Department of Agriculture - Natural Resource Conservation Service (USDA-NRCS) worked to develop this standard which was required by

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EPA regulation. This NMTS will replace the existing Best Management Practices (BMP) document found in the current permit and will be used by the permittee to develop a Nutrient Management Plan for their operation.

Nutrient Management Plans (NMPs)

Farm-specific Nutrient Management Plans (NMPs) are now required at any operation that is defined as a CAFO in Missouri. The department's revised CAFO regulation along with our "Nutrient Management Technical Standard" sets specific criteria and requirements for developing and implementing an NMP. **In order for us to renew your CAFO permit in February 2011, you must have an NMP that meets these state requirements.** NMP's that were prepared in the last two or three years and were done so in accordance with USDA-NRCS standards, will likely meet or be very close to meeting the new state requirements. Having said this, you should carefully review your NMP or ideally have someone knowledgeable with CAFO regulations review it to ensure that it will meet the requirements.

In May of 2010, the department will mail a permit renewal application form to each permittee to fill out and return to the department. This application form will request that each CAFO submit their Nutrient Management Plan for department review. The renewal application form and NMP will be due by August 23, 2010. If your NMP is not ready for department review, you will be asked to submit the date on which your NMP will be completed and ready for department review; this must be no later than February 23, 2011.

CAFO Permit options

In December 2008 EPA made a number of substantial changes to the National Pollutant Discharge Elimination System (NPDES) regulations for CAFOs. Among other things, these changes addressed when CAFOs must have a federal NPDES discharge permit and how CAFO NPDES permits must be developed and issued by state agencies. Missouri regulation requires all CAFOs to have a permit and while the department will continue to provide a federal NPDES discharge permit, the department will also have a State No-Discharge permit for those CAFOs that do not "discharge or propose to discharge". Each permittee will be required to choose the permit that's appropriate for their specific circumstance.

CAFO Annual Report

Your current CAFO permit requires that an annual report be submitted by January 28 for the previous calendar year. As the end of the 2009 year is fast approaching, please ensure that your 2008 operational records are up to date that the annual report form is completed and mailed to the department in a timely manner. Facility recordkeeping and reporting is not only a requirement within your permit, but future permits will include increased focus and attention on

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records. This is because clear, complete and accurate records provide CAFO's an affirmative defense that the operation is following proper nutrient management practices.

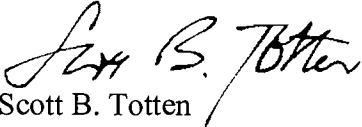
Please mail the completed annual report to:
Missouri Department of Natural Resources
Water Protection Program
PO Box 176
Jefferson City, Missouri 65102-0176

The new regulations and requirements affecting CAFOs reflect the department's commitment to enhanced water quality protection while ensuring the most efficient use of nutrients. The primary tool to accomplish this mission is the department's newly developed Nutrient Management Technical Standard. With this in mind, it is imperative that CAFO operators understand these new requirements. Additional information regarding the nutrient standard and newly adopted regulations can be obtained by calling (800) 361-4827 or is available on the department's Web site at www.dnr.mo.gov/env/wpp/cafo. Please feel free to contact staff within the department's Agricultural Unit if you have any questions regarding the new regulations and requirements. Staff within the Agriculture Unit can be reached at (800)361-4827.

In addition, the department will be partnering with the University of Missouri-Extension's Commercial Agriculture Program to provide educational sessions which may aid in answering your questions and providing guidance on adhering to the new requirements that will appear in the new permits. Several sessions will be held in the different regions around the state which will take place next February or March. More information on these sessions will be provided after dates and locations are established. Please feel free to contact Mr. Darrick Steen at 800-361-4827 if you wish to help arrange such a session.

Sincerely,

WATER PROTECTION PROGRAM


Scott B. Totten
Acting Director

SBT:dss

Enclosures

c: DNR Regional Offices

Missouri Department of Natural Resources 2010 CAFO Permit Renewal Fact Sheet

Nutrient Management Technical Standard (NMTS)

Future Concentrated Animal Feed Operation (CAFO) permits will require permittees to follow the newly developed CAFO “Nutrient Management Technical Standard”. This NMTS will replace the existing Best Management Practices (BMP) document found in the current permit and will be used by the permittee to develop a Nutrient Management Plan for their operation.

The NMTS establishes technical standards for:

- How to determine proper application rates,
- Land application timing considerations,
- Land application setbacks,
- Procedures for soil and manure testing,
- Procedures for developing crop nutrient requirements,
- Describes the record keeping requirements.
- **The new requirement for assessing phosphorus levels within the soil prior to developing agronomic application rates. It will be particularly important for CAFOs with higher soil test phosphorus levels in land application fields to analyze these new requirements as it may limit the amount of manure that can be spread on application fields.**

CAFO Permit options

Missouri regulation requires all CAFOs to have a permit and while the department will continue to provide a federal NPDES discharge permit, in 2011 the department will also have a State No-Discharge permit for those CAFOs that do not “discharge or propose to discharge”. At the time of permit renewal, each permittee will be required to make an informed choice regarding which permit is appropriate for their specific circumstance.

When is a Federal NPDES Discharge Permit required? EPA’s new regulation states that CAFOs that “discharge or propose to discharge” manure, litter or process wastewater to waters of the state **are required** to obtain an NPDES permit. A CAFO is said to “propose to discharge” when it is designed, constructed, operated, or maintained such that a discharge will occur. For example, most lagoons have been designed to capture precipitation and any runoff from chronic and catastrophic design storm events. When these design storm events are exceeded, the facility may propose to discharge if the facility is located close to surface water. It is still considered a discharge even if it occurs at intermittent or sporadic intervals regardless of its volume or duration. The term “propose to discharge” is not intended to include CAFOs that simply have the “potential to discharge”. Discharges of what is commonly termed “agricultural stormwater” are still allowed and not included within this definition. An agricultural stormwater discharge is a discharge from land application fields that resulted from rainfall or other precipitation related events. To qualify, the land application of the manure or wastewater must be applied in accordance with appropriate nutrient management practices.

Although it will be up to each CAFO to decide if an NPDES permit is needed, any facility that manages liquid manure in an open manure storage structure, like a lagoon, should consider obtaining the federal NPDES permit. As previously stated, this is primarily due to the fact that most lagoons may, by design, have discharges after certain chronic or catastrophic rain events. Such emergency discharges, which are

typically exempted under chronic wet weather provisions, will only be allowed under a valid NPDES permit.

When is a State No-Discharge Permit required? If a CAFO chooses not to apply for the federal NPDES permit, the CAFO must apply for the state no-discharge permit. The state no-discharge permit will not allow the discharge of manure, litter, or process wastewater into waters of the state from the production area due to weather conditions or other incidences that are not beyond its reasonable control. CAFOs that apply for the no-discharge permit must have an operation that is designed, constructed, operated, and maintained in a manner such that the CAFO will not discharge.

CAFOs that utilize roofed structures to confine both animals and manure storage structures are expected to be designed, constructed, operated, and maintained as no-discharge. Examples of these facilities include total confinement barn operations that store all of the manure and waste under roof such as dry litter poultry operations and, in certain cases, deep concrete pit hog barns.

Available Resources and Assistance

The following governmental resources are currently available and may be useful to help with complying with state CAFO regulation.

- Comprehensive Livestock Environmental Assessments and Nutrient management plan (CLEAN mp) is a free voluntary federal grant program that provides nutrient management and environmental assessment assistance at CAFOs and other animal production facilities. CLEAN funds are available through October 2011. For more information please contact Patrick Splichal or Eric Hess at (800) 897-1163, or visit their website at www.cleanmp-west.org.
- The USDA's Natural Resources Conservation Service (NRCS) has some financial assistance for the development of a Comprehensive Nutrient Management Plan for eligible CAFOs through its Environmental Quality Incentives Program (EQIP). In order to participate in the NRCS EQIP program, CAFOs must apply at their local NRCS office and have their edibility determined. CAFOs that are interested should contact their local NRCS office as soon as possible.
- The University of Missouri-Extension also has excellent resources available which can be found on their Nutrient Management home page website www.nmplanner.missouri.edu. This website provides information and resources relating to nutrient management planning, manure management, and regulations affecting animal feeding operations.