



November 22, 2017

Mr. Stephen G. Jeffery
Jeffery Law Group, LLC
400 Chesterfield, MO 63017-4800

Dear Mr. Jeffery:

Thank you for your interest in the State of Missouri rules regarding air pollution control. The Missouri Department of Natural Resources' Air Pollution Control Program has reviewed your request to amend 10 CSR 10-6.165 Restriction of Emission of Odors. The Department has decided not to amend the rule as a result of this petition. A description of the decision is enclosed.

Copies of your original petition and the Department's decision were forwarded to the Joint Committee on Administrative Rules and the Office of Administration as required under 536.041 RSMo. Copies of the Department's decision were also forwarded to those individuals who wrote in support of the petition.

If you have any questions regarding this matter, please contact Darcy Bybee with the Department's Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by phone at (573) 751-7840. Thank you for your interest in air pollution issues.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Signature on File

Kyra L. Moore
Director

KLM/dg

Enclosure

c: Mr. Ed Galbraith, Director, Division of Environmental Quality
Attached list

John Whitley	Robert Bergman
Beverly Whitley	Al SJ
Karel L. Rogers	Stephen G. Lucas
William S. Gardner	David & Jae Powell
Crystal Gardner	Jim & Marian Hall
Linda Spence	Howard L. Carter
Terry Spence	Dale Karl
Rolf Christen	William & Elizabeth Davis
Adrian & Tyann Cox	Polly Mullins
Trish Wendt	Vernon Zinn
Loretta Ray	James Fleming
Carissa Swank	Karen Andrews
M. Scott Taylor	Joseph Mess
Sherry Taylor	Bruce L. Emery
Gary Perkins	Richard & Mary Anne Bartlett
Evelyn Trickel	Joann Brower
Shirley Kidwell	D & J Murrow
Karen Prewitt	Gerald Percy
Jared Spence	Randy E. Hughes
Rachel Spence	Rick & Crystal Adamire
Clayton & Louise Armstrong	Everett & Betty Sparks
Kevin & Karen Semrow	DiAnnn L. Curfman
Tawnya Ammer	Tricia Key
August Bosman	

**Department of Natural Resources Response to
Petition to Amend 10 CSR 10-6.165 Restriction of Emission of Odors**

November 22, 2017

Statement of the Petition

The Missouri Air Conservation Commission (MACC) and the Missouri Department of Natural Resources (Department) received a petition to amend the existing odor regulation, 10 CSR 10-6.165 Restriction of Emission of Odors from the Jeffery Law Group LLC, representing multiple groups, on September 26, 2017. In addition the Department received multiple letters of support for the petition.

Department's Response to Petition

The MACC's odor regulations have been the frequent target of litigation and discussion. For instance, the State of Missouri prevailed against litigation brought by industry groups in 1999 and 2003. Thereafter, the Department entered into an extensive stakeholder process to discuss the regulation of odors in monthly meetings from January until June of 2007. These stakeholder meetings ultimately lead to the adoption of the current 2010 odor regulation.

The 2010 MACC odor regulation at 10 CSR 10-6.165(3)(A) placed restrictions on odor emissions from the largest concentrated animal feeding operations (CAFOs), that is, the Class IA CAFOs. Moreover, all classes of CAFOs are subject to the Clean Water Commission regulations at 10 CSR 20-6.300 and 10 CSR 20-8.300 and the provisions of the Missouri statutes found at sections 640.700-640.755 RSMo.

The current petitioners have requested that the MACC amend the odor regulation to regulate Class IB, IC, and Class II CAFOs, in addition to the Class IA CAFOs. The petitioners requested that the MACC's rule require annual odor control plans and emissions limits on CAFOs for ammonia, hydrogen sulfide, and particulate matter from Class IA, IB, IC and Class II CAFOs. The petitioners also requested that their proposal be adopted as an emergency rule.

After review of the petition and the regulation with respect to the criteria set forth in subsection 4 of section 536.175 RSMo (as required by 536.041 RSMo), the Department does not propose to amend 10 CSR 10-6.165 as a result of this petition. This conclusion is based on (1) the decisions made as a result of the 2007 stakeholder process, (2) the extent that non-Class IA CAFOs are subject to other statutory and regulatory requirements and (3) the additional regulatory burdens that would be imposed should the smaller CAFOs be brought under the odor regulation.

