

Below are the comments or summary of comments and the department's response to comments made during the stakeholder meeting held on April 12, 2017 and written comments received during stakeholder preview of the renewal of Master General Permits MOG010000 and MOGS1000. The department appreciates and encourages stakeholder and public participation during this renewal process.

Comment 1: National Pollution Discharge Elimination System (NPDES) permittees can switch to no discharge at any time – the Missouri Coalition for the Environment (MCE) believes the permits should explicitly state that permittees should be required to be in good standing with their NPDES in order to do so.

Response: When any facility requests to be covered by a different permit they must meet the applicability requirements of the permit they wish to transfer to. If an operation applies to change from the MOG010000 permit to the MOGS1000 permit they must demonstrate the ability to meet the no discharge requirement. This may be accomplished by being in compliance with their current permit or by showing compliance with 10 CSR 20-8.300 Manure Storage Design Regulation which requires CAFO to be designed as no discharge. With respect to discharges, the state no discharge permit is more restrictive. No change was made as a result of this comment.

Comment 2: Within the Inspections sections of both draft permits, we suggest that the permit state that when it is observed through inspection that facility processes are not operating as intended (i.e. observed drift from spray irrigation or storm water BMPs malfunctioning), action be mandated to resolve such observances (such as ceasing spray irrigation when drift is observed).

Response: Standard Conditions paragraph 6.h of both permits states “Any deficiencies found as a result of inspections shall be documented and corrected as soon as practicable.” However the department does concur that the language regarding drift from spray irrigation is vague. In response to this comment the following language has been added, “If drift from spray irrigation of wastewater is observed crossing property boundaries, the irrigation equipment shall be moved or the irrigation stopped until conditions are more favorable.”

Comment 3: Within both permit drafts, under the Applicability section, we believe the language should be changed to mandate that the department require the CAFO to apply for a general (NPDES) or site specific permit when it is determines that application is necessary to ensure protection of the waters of the state, rather than the department just having the authority to require the CAFO to apply.

Response: The Missouri Legislature has mandated this through the Missouri Clean Water Law in Chapter 644 RSMo. This established the Clean Water Commission (CWC) with the duty to carry out the public policy of this state to conserve waters of the state and to protect, maintain and improve the quality of the waters of the state. This is accomplished, in part, by ensuring that facilities are issued the appropriate permit. No changes were made as a result of this comment.

10 CSR 20-6.300(4)(B) outlines when MOGS1 permittees are no longer eligible for coverage under that permit and must seek coverage under a NPDES permit. Requiring an operation to change from a general NPDES permit to a site specific NPDES permit is usually a result of an enforcement action. No changes were made as a result of this comment.

Comment 4: We suggest that the definitions under General Requirements to remain in both permits for ease of permit applicants to understand the terms in the permit, as opposed to having to look up the regulations to ensure their understanding of the terms.

Response: The definitions that were listed in the permit are a small portion of the definitions that apply to CAFOs. Having definitions in the permit may make it easier for permittees to find, however it can give the impression that they are the only ones applicable to the permit. It is the responsibility of permittees to be aware of all statutes and regulations applicable to their operation. No change was made as a result of this comment.

Comment 5: Why change to just inspect areas where water is expected to runoff?

Response: Due to the topography of land application areas there are specific places where runoff concentrates prior to crossing the field boundary. The department believes it is better to concentrate efforts in these areas than

inspecting areas where runoff will not or is not likely to cross field boundaries. No change was made as a result of this comment.

Comment: 6: What is considered significant in regard to the threshold for holding a hearing?

Response: The department shall hold a public hearing if there is significant technical merit and concern related to the responsibilities of the Missouri Clean Water Law. The department reviews each request and evaluates the technical merit in order to decide to hold a public hearing or not. No change was made as a result of this comment.

Comment 7: Comments were received about clarifying the expectations when personnel must be present during nighttime irrigation?

Response: In response to this comment the language for night time irrigation has been changed to read, "Land application may occur during nighttime hours provided staff is present to monitor the irrigation system during irrigation periods. If an automated system is in place to send notification in the event of equipment malfunctions staff is not required to be present. The irrigation system shall be inspected once per night for equipment malfunctions and runoff even if an automated system is utilized. Nighttime application includes the period between one half hour before sunset and one half hour after sunrise."

Comment 8: Comments were received regarding receiving department approval before burying significant numbers of mortalities and that the department doesn't have the authority to enforce Department of Ag statutes. The reference to the statute should not be included in the permit.

Response: The department concurs that the language regarding the management of mass mortalities can be confusing. Therefore the language has been changed to read, "In the event of significant numbers of unexpected mortalities (i.e. mass mortalities), operations shall first receive approval of proposed burial sites from the departments' Missouri Geological Survey prior to burial. Approval of burial sites can be obtained prior to a mass mortality event by contacting the Missouri Geological Survey. Rendering, composting, incineration, or landfilling, are acceptable options and do not require prior approval from the department. The Missouri Department of Agriculture also has statutes regarding the disposal of dead animals in Chapter 269.020 RSMo."

Comment 9: Can we use other terminology other than design flow in the permit?

Response: 10 CSR 20-6.300(3)(A)2 allows CAFOs to operate at a level of animal units not to exceed it respective class size as long as it does not adversely impact the handling capacity of the waste management system. Because the design flow i.e. amount of manure generated, is based on the number of animal units, a change in the design flow would no longer require a permit modification. Therefore, the "Design Parameters" language in the permit has been deleted.

Comment 10: Comments were received that Class IA (facilities greater than 7,000 animal units) are excluded from both general permits.

Response: This comment was originally made during the 2012 renewal. The department committed at that time to explore this possibility at the next renewal. Upon review, the department will make the MOG010000 general permit applicable to Class IA CAFOs. The statutory and regulatory requirements specific to Class IA CAFOs has been added to the permit as "Special Requirements" and are applicable to Class IA operations only. Under the current fee structure the permit fee for the MOG010000 for a Class IA CAFO is the same as the specific permit fee.

Comment 11: What is a discharge?

Response: Discharge is defined in 10 CSR 20-2 as "The causing or permitting of one (1) or more water contaminants to enter waters of the state." No change was made as a result of this comment.

Comment 12: How many Missouri CAFO permits are G01 and how many are GS1? What is the requirement of the permittee when requesting to transfer from G01 to GS1?

Response: There are 29 effective MOG010000 permits and approximately 475 effective MOGS1000 permits. For changing permit coverage see Response to Comment 1. No change was made as a result of this comment.

Comment 13: What are the options for class II CAFOs once the permits are renewed?

Response: Due to the voluntary permit coverage being removed from 10 CSR 20-6.300 in 2016, no new voluntary permits will be issued to Class II and smaller animal feeding operations (AFO). If a Class II or smaller AFO is required as part of an enforcement action to seek permit coverage those operations can be issued a permit as a Class II AFO. Class II AFO with effective voluntary permits that wish to maintain permit coverage will need to meet the Class IC CAFO definition. Because this is an increase in size classification the operation would be subject to Class I statutes and regulations including buffer distance, neighbor notice, nutrient management plan, and design requirements. For operations that remain at the Class II size, permit coverage will not be available and can be terminated. No change was made as a result of this comment.

Comment 14: The factsheet does not appear to be updated and appears to have references to the 2013 permit.

Response: The fact sheet of both permits has been updated.

Comment 15: Issuance of coverage under a general permit is not a new permit and thus should not be afforded the opportunity for a public hearing.

Response: 10 CSR20-6.020(4)(A)1 states, "An opportunity shall be provided for the applicant, any affected state, any affected interstate agency, the regional administrator, or any interested agency, person or group of persons to request or petition for a public hearing with respect to the application." This includes applications for new permits, modifications, or renewals. No change was made as a result of this comment.

Comment 16: Special Requirement 3, Page 5. Subparagraphs a and b discuss land application areas under the direct control of the CAFO. There are inconsistent references to "direct control" and "control." The regulatory definition of land application area discussed agricultural land "which is under the operational control of the CAFO owner or operator." Consider making these references to control to be consistent throughout this paragraph. There is also a reference to "direct control" under paragraph 4 on page 5.

Response: The language in relation to control of land application areas has been changed to "operational control."

Comment 17: MOGS1 permit only. Special Requirement 10, Page 7. In paragraph 10.a. appears to be duplicative requirement to Special Condition 1. Consider deleting one of these paragraphs.

Response: The department concurs and therefore the language "Any discharge of manure, litter, process wastewater, or mortality by-products to surface waters of state or release crosses property boundaries shall be reported to the Department as soon as practicable but no later than 24 hours after the permittee becomes aware of the discharge" has been removed from Special Condition 1.

Comment 18: MOGS1 permit only. Special Requirement 11 Page 8. Paragraph says that the Nutrient Management Plan (NMP) Annual Reports and "updates" must be submitted to the department. Are NMP required to be submitted to the department? I thought that the original NMP must be submitted but revisions do not have to be submitted to MDNR. Please clarify.

Response: The NMP is only required to be submitted to the department with an application for a new permit. The language of the referenced paragraph has been changed to read "In accordance with 10 CSR 20-6.300(3)(G)1, the permittee shall implement and maintain a current Nutrient Management Plan. A portion of a CAFO's nutrient management plan includes the engineering design and construction related documents within a CAFO's construction and operating permit application and annual reports."

Comment 19: MOGS1 permit only. Special Requirement 12, Page 8. This paragraph refers to the "Division of Geology and Land Survey" in two locations. This should be changes to the Missouri Geological Survey.

Response: The “Division of Geology and Land Survey” has been changed to the Missouri Geological Survey.

Comment 20: MOGS1 permit only. Special Requirement 18, page 9. There is a reference to “and the law.” What law is this referring to? Consider adding full name of law and/or citation.

Response: The language “of the Law” has been changed to “RSMo.”

Comment 21: MOGS1 permit only. Fact Sheet, Page 1. The discussion under “General Comments” should be updated. For example, the last paragraph which speculates how many CAFOs will apply for this state no discharge permit. The department knows how many CAFOs applied for the state permit.

Response: The fact sheet has been updated.

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