From:	Davis, Michelle (DOH)
To:	Jennings, Jonathan (ECY)
Cc:	Grellner, Keith (DOHi); Kahler, Kelie (DOH); DeLong, David J (DOH)
Subject:	NPDES permit comments
Date:	Friday, October 02, 2015 4:09:43 PM
Attachments:	SBOH NPDES permit comments.pdf

Jon:

I am sending to you the Washington State Board of Health comments on the preliminary draft Concentrated Animal Feeding Operations permit. Please let us know if you have questions.

Michelle Davis, Executive Director
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990
(360) 236-4105/ FAX 236-4088

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STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH
PO Box 47990 • Olympia, Washington 98504-7990

October 2, 2015

Mr. Jon Jennings
PO Box 47696
Olympia, WA 98504-7696

Dear Mr. Jennings:

The Washington State Board of Health is very supportive of the preliminary draft National Pollutant Discharge Eliminations Systems (NPDES) permit as we feel that it addresses significant gaps in the existing regulatory framework for concentrated animal feeding operations (CAFO). As we understand it, the proposed permit language would require nearly all CAFOs in Washington to obtain a NPDES permit under this current proposal. We feel this is a step in the right direction to protect human health for those that reside near CAFOs.

In addition to our general support for this more widely applicable CAFO permit, the board has comments specifically related to the proposed permit language:

1. SI.A: We recommend the department expand the description of activities that are covered under this permit to include CAFOs that cannot demonstrate and document to the department exemption under RCW 70.95.170. The recent Cow Palace judgment determined that improper or inadequately managed manure is by definition a solid waste and as such is subject to regulation under chapter 70.95 RCW. If a CAFO cannot demonstrate and document that it qualifies for exemption, and the CAFO has not obtained a solid waste handling permit from the local health jurisdiction for manure storage, treatment, piles, composting, and/or land application, a discharge should be presumed to have occurred, and the CAFO should be subject to a NPDES permit. Also, we strongly recommend that a CAFO located within an area that has been designated as a groundwater management area due to documented ground water contamination, or within a watershed of a surface water body identified as threatened or impaired or listed on the state's 303(d) list by the department should be required to obtain a NPDES permit.

2. S2.A: We strongly support the provision of S2.A on Page 5 to presume that lagoons without geomembrane liners and leak detection are discharging to groundwater and thus are subject to a NPDES permit.

3. S2.F: We recommend the department review a Notice of Termination (NOT), and inspect the CAFO to determine compliance with the NOT, and render an approval before the CAFO NPDES is deemed fully terminated. Also, please note that on page 7, S2.F: the first use of "NOT" is not spelled out as a "notice of termination".

(Cont'd)

4. S4: We recommend the department require CAFOs to report their manure pollution prevention plan (MPPP) activities on a minimum annual basis to the department for review and follow-up if needed. Departments of Ecology and Agriculture should review and approve MPPPs prior to implementation.

5. S4.B, 2: We recommend that manure storage, piles, treatment, composting facilities, and land application activities be included in the MPPP and future MPPP reports.

6. S5.B, 3 and S5.C, 2: We recommend that the department should consider adding pharmaceuticals and hormones to the sample parameters.

Recommendations for Definitions:

1. Discharge definition: add “release, or failure to control” after “addition”; add “or component of manure” after “combination of pollutants”

2. Lagoon definition: add “from AFO/CAFO activities” after “materials”

3. Land Apply/Application definition: add “where the appropriate soil sampling data and nutrient application calculations have been completed and demonstrate a deficit of available nitrogen for optimum crop growth” after “growth”

4. Land Application Field: add “where the appropriate soil sampling data and nutrient application calculations have been completed and demonstrate a deficit of available nitrogen for optimum crop growth” after “amendment”

5. Add a definition for “Presumptive Discharge: The determination that a discharge of manure, manure components, waste, and/or pollutants has, is, or will likely occur due to insufficient or inadequate institutional controls, data collection, reporting, management, or oversight of AFO/CAFO activities to demonstrate compliance or intent to comply with the requirements of the CAFO General Permit, chapters 70.95 and 90.48 RCW and chapters 173-266 or 173-350 WAC”

6. Waste definition: add “or manure or nutrients stored or applied in excess of the approved design specifications or permit requirements for a AFO or CAFO” after “materials”

Thank you for your consideration of these comments.

Sincerely,

Keith Grellner, Chair

cc: Michelle Davis

From:	Clifford, Denise (ECY)
To:	Moore, Bill (ECY); Jennings, Jonathan (ECY)
Cc:	Bartlett, Heather (ECY)
Subject:	Fwd: Heads up NPDES Permit comments.
Date:	Friday, October 02, 2015 4:02:23 PM

FYI

Denise Addotta Clifford
Department of Ecology
Governmental Relations Director
Cell: 360-480-1991

Sent from my iPhone

Begin forwarded message:

> **From:** "Davis, Michelle (DOH)" <Michelle.Davis@sboh.wa.gov>
> **Date:** October 2, 2015 at 3:42:07 PM PDT
> **To:** "Clifford, Denise (ECY)" <decl461@ECY.WA.GOV>, "Bartlett, Heather (ECY)" <heba461@ECY.WA.GOV>
> **Subject: Heads up NPDES Permit comments.**
>
> Hey there, I hope you two are doing well. I just wanted to let you know that our Chair, Keith Grellner has asked that we submit comments on the NPDES permit for CAFOs. We'll be sending them along shortly. In June 2014, we held a large panel discussion re: nitrate contamination resulting from CAFOs. We requested a panel briefing based on significant public testimony re: the adverse health effects and concerns regarding nitrate contamination of drinking water due to CAFOs.
>
> The Board is pleased that the NPDES permit will be expanded to cover more CAFOs. The comments include a number of recommended changes in several sections of the permit, as well as recommendations regarding a number of definitions. Sorry for the late notice on this, I just learned about the request yesterday. If you or program staff have any questions, please let me know.
>
> Happy Friday!