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Subject: DNMP informal comments to Preliminary Draft of CAFO Permit
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Attachments: [DNMP Comments on ECY Prelim Draft 2015-09-08.docx](#)
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Jon

Good Morning. Please find comments regarding ECY's preliminary draft CAFO permit.

Michael and Chery

Thank you so much for taking the lead for our program. Your comments were very thorough.

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GENERAL CONCEPTS OR IDEAS

Limit permit reporting requirements to no more than what is required under the federal CAFO, but have the capacity for adding individual permit requirements to address facilities where there is a need for additional oversight in specific areas (e.g. nutrient management, facility collection/diversion/storage, applications, pasture/field management).

There is little in the permit except a requirement to implement both 35 and 100 foot application setbacks that will address the primary issues in Whatcom County that involve surface water quality. There is a substantial focus on groundwater. Has consideration been given to requiring surface water quality testing as a component of the permit?

WHO IS TO BE PERMITTED

Is the permit intended only for facilities using a lagoon or clay/earthen lined structure for the collection and storage of process wastewater and also meets the definition of :

- (1) A large CAFO?
- (2) A large or medium CAFOs?
- (3) CAFOs regardless of size?

The DCAFO states (S2.A) that operators are required to apply if they have a discharge? Does this apply to a CAFO of any size? Does this only apply after the permit's effective date, or is it retroactive to discharges that have occurred since the expiration of the last permit?

S1.A: Activities Covered Under This Permit

Recommend including definition of agricultural stormwater in the body of the permit, then referring back to it in other parts of the document.

S2.B. How to Apply for Permit Coverage

Start subsection 2 with, "After Ecology has received the complete application for...permit requester must publish the notice of NOI." It is unclear who has the responsibility to publish, and when it should occur.

S3.C. Ecology Review of Engineering Documents

Clarify what a waste water control facility constitutes (possible should be added to definitions): Is it a lagoon? Is it a pit? Is it the underground piping between the lagoon and pit? Submitting engineer designs 180 days prior to initiating construction seems excessive...maybe this is standard?

Will a certified engineer at Ecology review and approve new construction or modification of existing wastewater control facilities? Will this review and approval replace local SEPA review? If not, is it intended to occur prior to, concurrent with, or subsequent to, local SEPA review?

S4 Manure Pollution Prevention Plan (MPPP)

There will be a substantial investment in time and resources for many CAFOs to create the maps and infrastructure documentation required under proposed sections S4.B.2 and associated

Clarify who is eligible to prepare MPPP. Generally, quite a bit of overlap with NMP. Will there be an effort to work with WSCC on elements required in NMP to eliminate duplicative elements between the two? Will CAFOs other than dairies also need a NMP or a CNMP?

S4.B General Requirements

3.a. Clarify that after an inspection or investigation is concluded that permittee make appropriate revisions. Time line is too short if MPPPs have to be revised by CD or approved by some entity other than the permittee.

S4.C. Minimum Components of a MPPP

1. Facility Documentation

The draft does not provide any detail (e.g. size and scale of required maps, level of accuracy and readability, etc) about how this information is to be presented or who is qualified to prepare this information. Can it be a not-to-scale hand sketch or does it need to meet specific requirements?

S4.C 1.a.1) Clarify that “known” underground infrastructure should be mapped.

S4.C 1.b. What if engineering plans are not available?

S4.C2. Facility Run-off Controls

Clarify wording in this section. It appears to state that runoff is allowed as long as the facility is designed to prevent runoff.

S4.C.3. Manure and Feedstock Storage

c. Composting Facilities

What agency will inspect compost facility to make sure they are in compliance with solid waste regulations? (also found in **S4.C.8. Livestock Mortality Management. c. Composting**)

d. Feed Storage

The requirement to collect and store all runoff from feed storage areas “with other liquid manure” represents a substantial departure from many current dairy NMP plans in western Washington. Dairy NMP plans have often been prepared allowing for the use of filter areas or vegetated treatment areas (NRCS Practice 635) where feed area runoff can be directed. Like other aspects of a CAFO, these represent risks to state waters if not properly designed, implemented, and managed. Collecting and storing all feed runoff could require the construction of many additional storage structures, covering feed areas, or reducing the number of animals at a facility.

d.2) Change “compost” to “feed”.

S4.C 4. Other Above and Below Ground Infrastructure

Define what is meant by *regularly* and *timely* and if there are qualifications for who conducts such inspections

S4.C 5 Diversion of Clean Water

Is the intent to use words or to use figures to describe the three requirements of this section (how, where, erosion avoidance). Does the erosion avoidance require engineering calculations to determine the flow and flow rate in order to determine appropriate erosion control?

S4.C 6. Prevent Direct Animal Contact with Water

Clarify “conduit to surface water”.

S4.C 9 Manure Nutrient Testing.

Clarify frequency of testing and whether testing results are to be in hand prior to making applications.

S4.C 10 Soil Nutrient Testing.

Clarify timing and frequency of testing.

S4.C 11. Land Application

a. General restrictions

Clarify how “indirect or precipitation related discharge...” is different from agricultural stormwater runoff.

Clarify dormant crops.

Also on page 18 in the first shaded box, quantify “rain event”. If a shower occurs 24 hours prior to application, but ground is not saturated, is that a rain event?

b. Equipment Calibration

Clarify frequency

b. 3-foot Soil Nitrate Benchmark

Clarify why a very high level in the first foot would be viewed equivalent to a very high fall soil test in the 3rd foot?

On the east side of the state, would it make sense for >45ppm in the 3rd foot to be an automatic issue triggering a response regardless of nitrate levels in upper two feet (e.g. cropping that could uptake these nutrients and irrigation water management to prevent their further downward movement)?

Clarify if the required action level is specific to the field with the elevated count.

Is there a way to do such a table over time where instead of depth the rows refer to the number of consecutive years where fall soil results exceed specified values?

S4.C 11. D.

Clarify how approval is given before emergency application. On what basis/under what criteria will approval be given?

S4.C 13. Field Run-off Prevention Management Practices

Clarify the meaning of buffers? Are buffers as described the equivalent to Riparian Forest Buffers (NRCS 391), Riparian Herbaceous Cover (NRCS 390), nutrient application setbacks, a combination, or something else?

Under EPAs Waters of the United States, water in tile lines are conduits to ground waters. Does this mean 35 foot buffers must be observed around all known tile lines?

Clarify if 100-foot land application setbacks apply to all nutrient applications such as commercial fertilizer or only to manure.

Clarify if 100-foot land application setbacks apply to both bare and also to vegetated land.

Clarify if the buffer and setback are in all locations around surface waters, etc or only from those portions of surface waters, etc which are downstream from nutrient applications?

S5.A. Operations and Maintenance Monitoring

Inspection and associated recordkeeping of facility infrastructure (daily, weekly, monthly). Will a lack of completing paperwork be an actionable violation by Ecology?

S5. MONITORING

It may be difficult to inspect records with multiple different methods as proposed.

There is no provision for on-farm testing of nutrients. Is this an oversight?

S7.F Spills Reporting

Clarify the timing requirements for making these contacts and place in a priority order.

APPENDIX A: Acronyms and Definitions

Add

- Agricultural stormwater
- Buffers
- Dormant crops
- Pasture
- Top of Bank
- T-Sum 200
- Waste water control facility
- Water holding capacity

Clarify

- 25-year, 24-hour Storm Event. How will this be determined in areas where precipitation rates vary widely in short distances? Whose measurements qualify?
- Application rate is both the quantity of material applied (gallons or pounds) as well as the amount of nutrient applied (pounds of N, P, and K, per acre).
- Manure. Permit defines all feed as manure (page 14, S4C.3.d) while definition only includes spilled feed that comes into contact with manure. Does manure also include process water?
- Overtop. Does overtop also apply to other types of manure storage structures such as tanks and pits?
- Process Wastewater

CAFO Ideas: These are ideas I had written back in March and April. Some of them appear in the draft but there is little in the draft to address surface water (except the large application setbacks).

Facilities with surface water discharge

- (1) Independent surface water sampling minimum of 4 winter/spring, 2 summer, and 2 fall samples upstream and downstream of representative application fields. Sampling to occur one to three days after applications.
- (2) Surface water sampling in waterways upstream (if available) and downstream of potential facility discharge points (lagoons, roofwater drain lines) as a minimum of 4 times annually. CAFOs with multiple facilities may have some requirements for each facility.

All facilities placed under permit

- (3) DYE TEST POTENTIAL SOURCES
Dye testing in first year of permit in all washing machines, sinks, and dairy facility toilets to determine where they are plumbed. If physical inspection and dye testing cannot determine destination of plumbing, require use of radio transmitters.
- (4) LAGOON
Daily monitoring of lagoon embankment whenever lagoon is within top two feet of embankment. Monitoring should entail physically walking or driving around the top or bottom of the lagoon embankment to inspect for any seeps or breaches and should not the lagoon level below (or above) the maximum designed net capacity. A 1" rebar or equivalent marker should be placed in lagoon showing the 2 foot, 25 year 24-hour storm, and one foot freeboard levels. Monitoring results submitted via email or postal mail every week during period lagoon is at or above 2 foot level.
- (5) DIVERSION
Semi-annual operator certification that all gutters, downspouts and drains necessary to divert roofwater from storage are functional (Sept 30 & April 30).
- (6) FIELD INFRASTRUCTURE MAP
Within first year, map showing location of all known underground infrastructure (tiles, drains, surface inlets, pipelines, risers, valves) and spreadsheet details about date of last repair/replacement.
- (7) APPLICATION CHECK
Annual physical check of risers, valves, and hoses prior to use.
- (8) PRESSURE TEST
An initial + once every other year pressure test of underground lines.
- (9) FACILITY MAP

Submittal in first six months of permit of a facility map(s) showing guttered roofs, location of downspouts & drains, collected roofs, seasonally collected roofs, collected slab areas, uncollected slab areas, seasonally collected slab areas, and identification of potential cross-contamination/trackout from equipment use (e.g. feed and scraping equipment).

(10) OPERATOR REVIEW AND CHECKLIST FOR ANNUAL ASSESSMENT

- a. vegetated treatment area (NRCS635),
- b. heavy use area (NRCS561),
- c. filter strip (NRCS393),
- d. field border (NRCS 386), and
- e. other NRCS practice standards by a **technical service provider (TSP)**.

Forms for each that identify critical points that the facility completes and submits documenting whether or not the practice is being managed and maintained to function according to the appropriate NRCS practice standards or corrections/fixes that have been made.