

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
GENERAL PERMIT NUMBER OKG010000  
CONCENTRATED ANIMAL FEEDING OPERATION DISCHARGES WITHIN THE STATE  
OF OKLAHOMA**

**NOTIFICATION OF RESPONSE TO COMMENTS**

*Prepared by Jorden Foster, E.I.*

The Oklahoma Department of Agriculture, Food, and Forestry (ODAFF), Agricultural Environmental Management Services (AEMS) Division, received six (6) written comments from one (1) party concerning the draft general permit OKG010000 during the 30-day public comment period which opened February 15, 2017 and closed March 16, 2017.

After reviewing the comments and considering the issues raised, changes were made to the draft permit. A copy of the final permit, fact sheet and response to comments has been posted on ODAFF's website at <http://www.ag.ok.gov/aems/agpdes.htm>.

ODAFF's responses to comments were provided to all parties that submitted comments within the thirty (30) day public comment period. The permit will become effective on April 3, 2017. This will be the ODAFF's final permit decision.

A summary of the comments received, ODAFF's responses, any resulting modifications to the draft permit, and any staff-identified changes are listed in the Response to Comments.

ODAFF has provided this notification of its Response to Comments to all parties on their mailing lists.

The majority of the comments were requesting clarification. All comments were fully considered and changes were made where appropriate.

The Division contact is: Sherri Shadrick, (405) 522-5493, [Sherri.Shadrick@ag.ok.gov](mailto:Sherri.Shadrick@ag.ok.gov)

Response to public comments received by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) during the 30-day public notice period for the Oklahoma AgPDES CAFO General Permit (OKG010000). Written comments submitted by Matt Davis from Texas Cattle Feeders Association dated March 14, 2017. ODAFF response is in blue.

Comments on Draft Oklahoma AgPDES CAFO General Permit

### **General Comments**

On behalf of beef cattle feedyards operating in Oklahoma, we appreciate AEMS Division management and staff for their efforts to reissue a general permit for CAFO's in Oklahoma. We would like to thank the division for the opportunity to provide comments for those facilities seeking coverage under a CAFO general permit and believe that a general permit remains the best option to protect water quality for both permittees and the agency.

### **Specific Comments**

**Part I.D.6. CAFO's that do not meet the National Historic Preservation Act eligibility provisions contained in Appendix D of this permit.** *We contend this is a carry-over from federal requirements and should not be required in the state regulations.*

ODAFF has decided to leave the National Historic Preservation Act eligibility provisions in the new General Permit. Your comment on this has been noted.

**Part II. A.2.a.vi.(A).1. The owner shall obtain a contract with a rendering service that insures disposal of all carcasses with a reasonable period of time. The name, address and telephone number of the rendering service shall be provided. In addition, the frequency and schedule of carcass pickup shall be included.** *We recommend the requirement of obtaining a contract should be removed. In some instances, rendering companies will not sign a contract. The company name, contact information and pickup schedule will be provided.*

ODAFF understands that it is difficult to obtain a contract with a rendering service. The language in this section has been updated to remove the requirement of a contract. It now reads as follows:

- (1) The owner shall use a rendering service that insures disposal of all carcasses within a reasonable period of time. The name, address, and telephone number of the rendering service shall be provided. In addition, the frequency and schedule of carcass pickup shall be included.

**Part III.A.3.a., paragraph 2.** *If the CAFO needs to maintain storage capacity that exceeds the minimum capacity requirements of Part II.A.1, as stated above, to comply with the land application provisions of the NMP or Part II.A., the storage capacity shall become a term of this permit and EPA will develop site specific terms based on the submitted NMP. Replace EPA with AgPDES Director or ODAFF.*

The language in this section has been changed to read ODAFF instead of EPA. It now reads as follows:

If the CAFO needs to maintain storage capacity that exceeds the minimum capacity requirements of Part II.A.1, as stated above, to comply with the land application provisions of the NMP or Part II.A., the storage capacity shall become a term of this permit and ODAFF will develop site specific terms based on the submitted NMP.

**Part III.D.1.c.** **If notified by the State or EPA that the potential exists for the contamination of surface waters or drinking water, the permittee shall install a leak detection system or monitoring wells, or take other appropriate measures in accordance with that notice.** *ODAFF has delegated authority so we request to remove the words: or EPA.*

The language in this section has been changed to read ODAFF instead of EPA. It now reads as follows:

If notified by the ODAFF that the potential exists for the contamination of surface waters or drinking water, the permittee shall install a leak detection system or monitoring wells, or take other appropriate measures in accordance with that notice

**Part III.D.5.** *The requirement to monitor receiving water immediately downstream of a discharge to determine if a fish kill is occurring is beyond the capabilities of the CAFO operator. A CAFO operator does not have authority to access private property downstream of the location. The existing discharge sampling, analysis and reporting are sufficient requirements for the CAFO operator. Someone with technical training, proper knowledge and credentials to access private property should monitor the receiving waters for a fish kill.*

ODAFF understands that in certain situations it may be difficult to get access to downstream waters when the downstream water is on private property. However, it is still the responsibility of the CAFO owner/operator to monitor – to the greatest extent practicable - receiving waters immediately downstream of a discharge. Taking into consideration your comment, ODAFF has changed the language to read as follows:

5. Manure, litter, and process wastewater handling, treatment, and management shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or contribute to the taking of endangered or threatened species of plant, fish or wildlife. The operator shall notify State and Federal wildlife agencies, and ODAFF within 48 hours if any dead or injured threatened or endangered species or protected migratory birds are observed in or on receiving waters following a discharge or on the facility's land application areas at any time. If a discharge

occurs, CAFO operators shall, to the greatest extent practicable, monitor receiving waters immediately downstream of the discharge to determine if a fish kill is occurring and report their monitoring procedure and findings to ODAFF immediately. In the event that the CAFO operator has difficulty gaining access to the receiving waters immediately downstream of the discharge, ODAFF will assist in gaining access to the downstream waters.

**Part VI.C.5. Monitoring Procedures.** *Permittees have no control over calibration and maintenance of laboratory testing equipment. The permittee is required by Part III.A.3.e. and Parts III.A.7.d&e. to identify testing protocols in the NMP. To satisfy these protocols the laboratory is already required to meet the calibration and maintenance requirements. Therefore, we request Part VI.C.5.a., b. and c be removed from the permit.*

CAFO operators are still required to calibrate and perform maintenance on all monitoring and/or analytical instruments that they may use on-site for sampling under Part VI.C.5.b (e.g., monitoring wells, decontamination of sampling equipment, etc.).

By acquiring the services of a laboratory certified by the Oklahoma Department of Environmental Quality and approved by ODAFF that meets the calibration and maintenance requirements, the CAFO operator is fulfilling the “adequate analytical quality control program” requirements of Part VI.C.5.c. It is the CAFO operator’s responsibility to provide all calibration and quality control documentation provided by the lab after analysis in order to insure they are meeting the requirements of this section.

Part VI.C.5(c) now reads as follows:

An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. The laboratory shall be an Oklahoma Department of Environmental Quality certified testing laboratory and approved by ODAFF.