

Letter to DEQ from Michigan Legislators
RE: CAFO General Permit

January 26, 2015

Dan Wyant, Director
William Creal, Chief, Water Resources Division
Michigan Department of Environmental Quality
Constitution Hall
525 West Allegan Street
Lansing, MI 48933

Director Wyant and Chief Creal:

We submit this letter to you on behalf of Michigan residents affected by water pollution from our state's hundreds of concentrated animal feeding operations (CAFOs). The Michigan Department of Environmental Quality (DEQ)'s draft National Pollution Discharge Elimination System Wastewater Discharge General Permit for CAFOs (MIG010000), open for public comment, is a key tool in controlling phosphorous, nitrate, bacteria, pathogens, and veterinary pharmaceuticals from entering our waters. Yet, your draft does little to reflect the need to protect our waters, as events like last summer's drinking water ban in neighboring Toledo, Ohio so dramatically demonstrated. Michigan's waters are at risk of reaching similar crisis levels, with livestock pollution being one of the primary causes.

You have tools at your disposal to protect Michigan's citizens and resources from pollution from CAFOs, and these should be integrated into the CAFO General Permit. The "Top Ten" fixes that will have the greatest impact on water quality are:

- 1. Ban manure applications on frozen or snow-covered fields.** Applying manure to frozen or snow-covered fields increases the risk of runoff and oversaturation of soils. Many states ban it and restrict it; even states with significantly less snowfall than Michigan have better protection than we do. The International Joint Commission and Ohio Task Force recommend it. We want Michigan to ban application of manure to frozen or snow-covered ground.
- 2. Reporting manifested waste.** CAFOs don't have enough fields to apply manure so they sell it and give it away ("manifesting" waste). The limited reporting requirements for manifested waste means CAFOs spread the pollution farther and wider, with less accountability. In Michigan, manifested waste should be subject to the same reporting and enforcement requirements as a CAFO's own waste.
- 3. "Predicted precipitation" problem.** CAFOs are restricted in how they apply waste when rain is forecasted, but CAFOs interpret this in a way that allows them to apply waste even if a heavy rainfall is imminent. This increases the

chances of runoff and oversaturation of soils. We want the parameters governing this provision changed to protect our waters.

4. **Manure and Soil testing.** Testing is critical to the health of our crops, soils, and to the protection of our surface and ground waters. Manure and soil testing needs to be increased in frequency and depth to holistically track the impacts of CAFO manure on our environment.
5. **Public participation.** Currently, when certain changes to a CAFO are proposed (e.g. fields they apply to, size, etc.) that affect the local community, a public hearing is not always required. We want to change this so a public hearing and permit modification are required for “significant” changes.
6. **Universal coverage.** Right now, only large CAFOs (e.g. 700 or more dairy cows) need permits. However, the General Permit requirement is intended to apply to large and medium CAFOs. Many “medium” CAFOs (200-699 dairy cows) in Michigan pose an equal risk to the environment and public health due to poor manure management practices and little meaningful oversight by DEQ. We seek the Permit to clearly cover all medium and large CAFOs.
7. **Surface water quality.** Surface water quality is not adequately monitored or enforced by MDEQ. We want increased frequency of monitoring, and we want to start monitoring for industry-specific contaminants and tracers that also pose a risk to human health, e.g. pharmaceuticals and hormones.
8. **Groundwater quality and resource use.** Groundwater is inadequately monitored. In some areas, Michigan’s groundwater levels are very close to the surface and at high risk of contamination from CAFOs. Michigan defines “waters of the state” to include groundwater, yet the Groundwater Permit Program unrealistically only targets CAFOs with more than 5,000 animal units (most of Michigan’s CAFOs have less than that). We believe the DEQ’s Groundwater Permitting Program has issued less than 3 permits to CAFOs, and at least one permit does not even include any monitoring requirements, expired nearly 4 years ago and has not been renewed. We want to require meaningful groundwater quality monitoring for all medium and large CAFOs so that pollution is identified before local residents’ well water is contaminated. CAFOs also use large amounts of water. Their withdrawal and depletion of groundwater is not considered by MDEQ’s permit but should be. Ground water is a public resource and should not be overtaxed by CAFOs.
9. **No-till.** Certain farming practices such as no-till need to be re-defined in the permit and manure needs to be incorporated with 24 hours to minimize the chances of runoff (not 30 days).
10. **Trigger protections for impaired waters.** Several streams in Michigan are federally-listed 303(d) impaired streams for E. Coli and have been for years; yet MDEQ has delayed setting TMDLs for it. Special manure application rules exist

for fields and production areas that drain to 303(d) waters; but these rules are only triggered once MDEQ sets TMDLs.

The events of last summer make it clear: Michigan has a pollution problem. We need meaningful, direct action to control the pollution coming from livestock facilities. Livestock is a core piece of Michigan's economy, but it is also key to preserving our environment and health of our citizens. The tools above are logical ways for DEQ to begin to get a handle on the scope and extent of the pollution, and enable all of us to work on solutions before another crisis occurs.

Sincerely,

Senator Rebekah Warren
State Senator
Michigan's 18th District

Representative Stephanie Chang
State Representative
Michigan's 6th District

Representative Christine Greig
State Representative
Michigan's 37th District

Representative Jeff Irwin
State Representative
Michigan's 53rd District

Representative Derek E. Miller
State Representative
Michigan's 28th District

Representative Jeremy Moss
State Representative
Michigan's 35th District

Representative Kristy Pagan
State Representative
Michigan's 21st District

Representative Sarah Roberts
State Representative
Michigan's 24th District

Representative Robert Wittenberg
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Michigan's 27th District