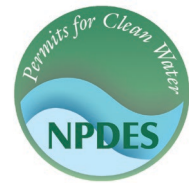




United States Environmental Protection Agency
Office of Water, Office of Wastewater Management
Water Permits Division
October 2011



Proposed NPDES CAFO Reporting Rule

On October 14, 2011, the Environmental Protection Agency (EPA) signed the proposed National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule.

Background

EPA's regulation of discharges from CAFOs dates to the 1970s. Contrary to many other regulated industries, EPA does not have facility-specific information for all CAFOs in the United States. Facility location and basic operational characteristics that relate to how and why a facility may discharge is essential information needed to carry out NPDES programmatic functions.

The purpose of this proposed rule is to collect facility-specific information that would improve EPA's ability to effectively implement the NPDES program and to ensure that appropriate practices are being implemented by CAFOs, with the ultimate outcome being improved protection of water quality. The objectives of the NPDES CAFO Reporting Rule are to address water quality issues associated with discharges of manure pollutants from CAFOs, and to allow the EPA to more efficiently and effectively achieve the water quality protection goals and objectives of the Clean Water Act (CWA), with respect to the implementation and management of the NPDES program for CAFOs.

Action

The EPA developed a proposed rule that would require owners or operators of CAFOs to submit basic information to the EPA. Specifically, the EPA is co-proposing two regulatory options regarding which CAFOs would be required to submit information to the EPA. Under the first option, all CAFOs would be required to report information to the EPA, unless states with

authorized NPDES programs choose to provide the information on behalf of CAFOs within the state. This option is voluntary for states. Where a state provides all the information to the EPA, the CAFO would not be required to submit information. Under the second option, only CAFOs in focus watersheds that have water quality concerns associated with CAFOs would be required to report information to the EPA. Additional criteria for identifying focus watersheds include the following: high priority watersheds, patterns of vulnerable soils, high densities of animals, and other relevant information such as proximity to environmental justice communities.

EPA is requesting public comment on both proposed rule options for gathering the information identified in the proposal and the alternative approaches to achieve water quality protection.

Proposed Reporting Requirements

Under the first option, unless a state voluntarily provides the information on behalf of a CAFO, an owner or operator of a CAFO would be required to provide the EPA with a completed survey form. Under the second option, all CAFOs in the focus watershed would be required to submit information to the EPA. The survey form may be completed and provided to the EPA by using an online information management system or, if providing the information electronically would cause the CAFO an undue burden, the owner or operator may complete and mail to the EPA a hard copy

of the survey form. The survey form collects the following information: contact information, location of the CAFO's production area, whether the operation has NPDES permit coverage, the number and type of animals held in confinement, and the number of acres available for land application of manure. Both options would apply to unpermitted and permitted CAFOs.

EPA also is seeking comment on alternative approaches for achieving improved water quality protection:

- Use of Existing Data Sources: The EPA would gather information from existing sources in lieu of requesting CAFOs to report under section 308 of the CWA. Such data sources would include the U.S. Department of Agriculture Ag Census, state data/mapping, satellite images/aerial photography, and the EPA's Assessment and Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS).
- Alternative Mechanisms for Promoting Environmental Stewardship and Compliance: EPA would expand its network of compliance assistance, outreach tools and partnerships with industry to assist in addressing the most significant water quality problems. Comprehensive compliance assistance and outreach efforts are tools a regulatory program can use in partnerships with industry to proactively protect and maintain water quality.
- State Reporting: The EPA would require state NPDES regulatory agencies to submit available information on CAFOs and only require CAFOs to report where states fail to provide the necessary information.

Public Involvement

The Agency will take public comment on the proposal for 60 days following publication in the *Federal Register*. Comments, identified by

Docket ID No. EPA-HQ-OW-2011-0188, may be submitted by one of the following methods:

- www.regulations.gov: follow the on-line instructions for submitting comments.
- E-mail: Comments may be sent by electronic mail (e-mail) to ow-docket@epa.gov.
- Fax: Fax your comments to: 202-566-9744.
- Mail: Send your comments to: Water Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460.
- Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, 1301, Constitution Ave., NW, Room 3334, Washington, D.C. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Next Steps

During the public comment period, EPA will hold several webcasts to provide an overview of the proposed rule requirements and answer questions about the proposed rule.

EPA plans to take final action regarding the proposed rule by July 2012. The rule's progress can be followed on EPA's Rulemaking Gateway at <http://yosemite.epa.gov/opei/RuleGate.nsf/byRIN/2040-AF22?opendocument>.

FOR MORE INFORMATION

Copies of the fact sheet and the *Federal Register* notice can be downloaded from http://cfpub.epa.gov/npdes/home.cfm?program_id=7. For more information, call Becky Mitschele of EPA's Office of Wastewater Management at 202-564-6418 or email at mitschele.becky@epa.gov.