

Proposed CAFO Rule
Public Meeting Notes

Ames, IA
July 25, 2006



CAFO Proposed Rule Stakeholder Meeting Sign-In Sheet
Tuesday, July 25, 2006
Iowa State Center, Scheman Conference Center
Ames, Iowa
9am - 12pm

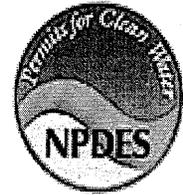
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**CAFO Proposed Rule Public Meeting
Tuesday, July 25, 2006
Iowa State Center
Ames, Iowa**



- I. Welcome by Art Spratlin, US EPA Region 7 Water Wetlands and Pesticides Division Director***
- II. Opening remarks by Jon Scholl, US EPA Counselor to the Administrator on Agricultural Policy***
- III. Introduction to the CAFO Proposal by Allison Wiedeman, US EPA Rural Branch Chief, Office of Wastewater Management***
- IV. Presentation on the Proposed CAFO Rule Revisions by George Utting (Office of Wastewater Management) and Paul Shriner (Office of Science and Technology)***
- V. Q&A's***
- VI. Closing Remarks***

Section I

Welcome by Art Spratlin, US EPA Region 7 Water Wetlands and Pesticides Division Director

Mr. Spratlin welcomed the participants to the meeting and explained that the purpose of the meeting was to enhance public understanding of the proposed regulation for CAFOs. He encouraged participants to ask clarifying questions after the presentation summarizing the elements of this rule is given. He made clear that this meeting is not a mechanism for providing formal comments on the rule and formal comments must be submitted in writing to the Agency by August 14.

Section II

Opening remarks by Jon Scholl, Counselor to the Administrator on Agricultural Policy, US EPA

- We are pleased to speak with you today about the Concentrated Animal Feeding Operations Proposed Rulemaking, published in the Federal Register on June 30, 2006. This proposed rule is of great significance to animal agriculture producers and the public and your participation in this process is very important to us.
- The purpose of this meeting is to enhance public understanding of the proposed regulation for CAFOs. After a presentation is provided today summarizing the elements of this rule, participants are encouraged to ask clarifying questions. Just to be clear, this meeting is not a mechanism for providing formal comments on the rule. Those must be submitted in writing to the Agency by August 29.
- This meeting is part of a larger agricultural strategy issued by the Agency earlier this year which focused on the increased communications on important issues with the agricultural community. We believe that extended outreach is essential to partnering with the agricultural community to protect the environment.
- The proposed rulemaking seeks comment on a number of issues, one of which is the feasibility (including consideration of legal, technical, and implementation issues) of allowing flexibility in how facilities can meet various programmatic requirements, for instance those of the Clean Air Act and Clean Water Act, in order to achieve greater cross-media pollutant reductions. We are interested in exploring this type of approach for both existing and new CAFOs.

Section III

Introduction to the CAFO Proposal by Allison Wiedeman, Rural Branch Chief, Office of Wastewater Management US EPA

In Ms. Wiedeman's introduction she identified five elements of the Proposed Rule that the agency was soliciting comment on:

Vacatures:

1. Duty to Apply
2. NMP Public Review

Remands:

1. Water Quality-Based Effluent Limits (WQBELs) for production area
2. New Source Performance Standards (NSPS) for veal, pork, and poultry
3. Best Conventional Pollutant Control Technology (BCT) for pathogens

Ms. Wiedeman also informed the public that the majority of the technical regulations are unchanged by the litigation. The proposed revisions relate directly to the court decision and the agency is only soliciting comments on the revisions. The agency is not soliciting comments on the unchanged portions of the regulations.

Ms. Wiedeman reiterated the point made by Jon Scholl that this is a public meeting, not a public hearing, and that the purpose of this meeting is to educate the public on matters regarding the rule's revisions in order for the public to provide more knowledgeable comments.

Ms. Wiedeman added that there had been two public meetings in DC and North Carolina and three forthcoming in Colorado, Texas, and California.

Section IV

Presentation on the Proposed CAFO Rule Revisions by George Utting (Office of Wastewater Management) and Paul Shriner (Office of Science and Technology)

Mr. Utting presented on the two vacatures:

Vacatures:

1. Duty to Apply
2. NMP Public Review

and one of the remands:

Remand:

1. Water Quality-Based Effluent Limits (WQBELs) for production area

Mr. Shriner presented on the remaining two remands:

Remands:

1. New Source Performance Standards (NSPS) for veal, pork, and poultry
2. Best Conventional Pollutant Control Technology (BCT) for pathogens

Section V

Questions

[Note – the questions presented below are not verbatim transcripts of the discussions that occurred at the meeting. Rather, the following is a paraphrased summary of the issues raised. The answers will be reflected in a forthcoming response to comments guidance document.]

Q1. Is EPA going to provide producers with a comprehensive list of surface waters that are considered Waters of the United States? [Duane Gangwish – Nebraska Cattlemen]

Q2. The Waterkeeper decision said that EPA could relate the “duty to apply” concept to just Large CAFOs based upon an adequate demonstration of a presumption of discharge. Is EPA going to do so in this rule? [Wally Taylor – Sierra Club Iowa Chapter]

Q3. We would like the Agency to consider an extension of the dates by which operations must be covered by an NPDES permit. This is necessary based on the shortage of NMP writers and the need for States to modify their existing regulations. [David White – Ohio Livestock Coalition]

Q4. Are the technical standards mentioned by EPA the same as those used by NRCS? [David White – Ohio Livestock Coalition]

Q5. Do these technical standards include 631 and 633 in addition to 590? [David White – Ohio Livestock Coalition]

Q6. Does the State have a role in defining zero discharge especially in light of the role of models and the allowance of a discharge under certain circumstances? [Steve Veysey – HFFA]

Q7. Will today’s slide presentation be available on EPA’s web site? [Kevin Gustafson – NE NRCS]

Q8. How will EPA define the terms “substantial” and “significant” in the rule?
[Stakeholder not identified – Iowa Cattleman]

Q9. We were told by Iowa DNR that if we stayed under 1,000 animals not under roof we would not be permitted. Based on this we have added 4,000 - 5,000 animals under roof along with the less than 1,000 head open lot. Why do we need a permit? [Joel Stedman – Feedlot Operator NW Iowa]

Q10. Why does EPA consider adding more land a substantial modification to a NMP and require public review? Adding more land enables better nutrient management and such requirements may preclude operators from doing so which would not be good for the environment. [Bill Taylor – Iowa Cattleman’s Association]

Q11. What does propose to discharge mean? How is EPA going to relay their interpretation of topics such as this to the Regions and the States? [Nancy Erickson – Illinois Farm Bureau]

Q12. A facility is under an existing permit that does not reflect all of the requirements in the proposed rule and it does not expire until 2010. Is the agency required to issue a new permit that reflects the new requirements, when the proposed rule is finalized? [Gene Tinker – IDNR]

Q13. How is EPA going to work with the States to implement the new rule – especially those that have to make statutory changes – especially the dates? [Craig Head – NE Farm Bureau]

Q14. How many more meetings will be needed under the next few years to address these changes? [Stakeholder not identified – Cattle Feeder]

Q15. What are the duties of the permit authority to determine compliance and what are the rights of the public to verify compliance? [Steve Veysey – HFFA]

Q16. Would a CNMP be sufficient to demonstrate compliance with the Agricultural Storm Water Exemption? [Cattle Feeder NW Iowa]

Q17. How does the producer demonstrate that a discharge is agricultural storm water? If it is determined not to be agricultural storm water, how long would a permit be required for that facility? [Dave Wall, MN Pollution Control Agency]

Q18. Your presentation says Final Rule by 7/2007 and NMPs by 8/2007 – Is that practicable? [Bill Scheither – ICA]

Q19. How do you define under the control of the CAFO? When does control end? [Dave White – Ohio Livestock Coalition]

Q20. Can a violation be determined by the use of calculations or must the discharge be observed? [Maralee Johnson – Illinois Beef Association]

Q21. In the case where a CAFO without a permit has a discharge that requires a permit to be issued, will that permit cover the land application area as well as the production area? [Sierra Club]

Q22. How are the discharge provisions applied to a poultry facility with outdoor stockpiles? What if the stockpile is transferred to another owner? [Dan Wall – MN PCA]

Q23. The draft NMP template requests design criteria. Why would this be needed for a facility that is developing the NMP to document compliance with the Agricultural Storm Water Exemption which only covers land application? [Duane Gangwish – Nebraska Cattlemen]

Q24. There is a need for guidance on past discharge and its role in determining the need for a permit. Specifically what do the terms “corrected” and “past” mean and what does “in the past” mean? [Ed Tormey – IA Department of Natural Resources]

Q25. When a facility is covered by a general permit and they want to make a substantial change to their NMP, how is that process different than under an individual permit? [Dan Wall – MN PCA]

Q26. To avoid the need for a modification, it is possible that NMPs will need to be developed that include any possible scenario? What is the environmental benefit of this? [Stakeholder not identified]

Section VI

Closing Remarks

Ms. Wiedeman thanked all the stakeholders and urged the group to formally comment on the Proposed CAFO Rule.