



United States
Environmental
Protection Agency

Office of Water,
Office of Wastewater
Management

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**Final Action on the Proposed National Pollutant Discharge Elimination System (NPDES)
Concentrated Animal Feeding Operation (CAFO) Reporting Rule –**

Questions and Answers

Q: Why is the EPA interested in collecting information about CAFOs?

A: The EPA will use information about CAFOs to further its statutory duties under the Clean Water Act (CWA) to restore and maintain the quality of the nation's waters. In support of these responsibilities, the EPA develops and enforces regulations, provides outreach and education directly to CAFO operators regarding how to comply with the EPA's regulations, conducts compliance assistance activities, implements watershed protection programs, assesses the effectiveness of its programs, awards grants, researches environmental issues, sponsors partnerships, educates the public, and publishes information. Information about CAFOs will be useful for any of these purposes.

Q: Why is the EPA focused on information about CAFOs rather than all animal agriculture?

A: By focusing on collecting information about CAFOs, the EPA will obtain information on those operations that present the greatest potential risk to water quality. CAFOs play an important role in water quality, due to the fact that they confine a large number of animals that produce a large volume of manure. Manure and wastewater from animal feeding operations are a potential source of nitrogen, phosphorus, pathogens, and other pollutants. Limited Agency resources warrant a targeted approach that focuses on sources that have the greatest potential impact on water quality.

Q: What did the EPA propose to require in the NPDES CAFO Reporting Rule?

A: On October 21, 2011, the EPA published a proposal that contained several options for gathering information about CAFOs to improve and restore water quality, as well as an option to improve water quality by promoting environmental stewardship and compliance rather than collecting facility-specific information.

The EPA proposed to collect the following five items:

1. Contact information for the CAFO owner or authorized representative;
2. Location of the CAFO's production area identified by the latitude and longitude or by the street address;
3. Whether the CAFO has applied for and/or received coverage under an NPDES permit;
4. Identification of each animal type confined and the maximum number of each animal type confined at the CAFO; and
5. At CAFOs that land apply, the number of acres available for land application.

Q: What is the EPA’s final action on the proposal?

A: For final action on the proposal, the EPA is withdrawing the proposed rule. Instead, the EPA will collect CAFO information using existing sources of information, including state NPDES programs and other programs at the federal, state, and local level to help ensure CAFOs are implementing practices that protect water quality.

Q: Why did the EPA not finalize a rule to collect information about CAFOs?

A: Among other reasons, the EPA is collecting existing information from existing sources based on comments indicating states already have CAFO information. Although collecting CAFO information is important, the Agency does not believe a rulemaking is necessary at this time to collect information on CAFOs. The Agency believes an efficient approach that first collects information from existing sources and does not duplicate efforts is the appropriate next step. The EPA will seek to collect the information items listed in the proposed rule, as well as the additional information that is available from existing resources.

The EPA’s decision not to require self-reporting recognizes that many CAFOs have provided their information to some governmental entity, although perhaps not to the EPA. While the EPA may not be the entity that initially received the CAFO information, it is reasonable at this time for the EPA to work with states, U.S. Department of Agriculture (USDA), U.S. Geological Survey (USGS), and other federal partners to obtain key information rather than asking CAFOs to re-submit to the EPA information they submitted to another governmental entity. Collecting existing information, evaluating it, and compiling it in one format will better inform the Agency of what additional information needs to be collected and the best way to collect that information in the future, if it is necessary.

Q: How will the Agency use the information collected from existing sources of information?

A: The EPA believes that CAFO information will be useful to the Agency and states to:

- Evaluate NPDES program effectiveness, including the identification of CAFOs that discharge;
- Determine potential sources of water quality impairments and take steps to address those impairments;
- Estimate CAFO pollutant loadings – by facility, watershed, or some other geographical area;
- Target resources for compliance assistance or enforcement, including outreach and education;
- Assist in implementation of nonpoint source pollution prevention programs;
- Develop comprehensive conservation and management plans as part of the National Estuary Program; and
- Assist in developing priorities for implementation of the Clean Water State Revolving Fund program, which is used to fund a wide variety of water quality protection projects.

The EPA will continue to work with the USDA, USGS, and other agencies to address sources of nutrient pollution. The EPA believes the Agency's data collection efforts under this final action also will help achieve these objectives.

Q: How will the EPA achieve the objectives of the CWA, specifically the NPDES permitting program, without collecting CAFO information through a rule?

A: The EPA believes the appropriate method of fulfilling the goals and programs of the Act, at this time, is to obtain information about CAFOs by working with state and local partners to collect information. In July 2012, EPA established a memorandum of understanding (MOU) with the Association of the Clean Water Administrators (ACWA) that specifically will assist the Agency in obtaining information about CAFOs. ACWA is an independent, nonpartisan, non-profit corporation of state and interstate water program managers. EPA believes cooperation with the states will assist EPA in obtaining needed CAFO information. This collaborative effort between EPA and ACWA will focus on identifying CAFOs and assist EPA in obtaining pertinent information about CAFOs on a state-by-state basis.

The settlement agreement does not commit the EPA to any particular final action. The settlement agreement expressly states that nothing in the agreement shall be construed to limit or modify the discretion accorded the EPA by the CWA or by general principles of administrative law. The EPA's final action fulfills the Agency's commitments per the settlement agreement with the environmental petitioners.

After seeking to obtain the information from existing sources, the EPA will re-evaluate whether a rule is needed to collect information about CAFOs. If the EPA determines that it is necessary to fill in information gaps, the Agency may use existing tools, such as site visits or individual information collection requests, to collect information, and may reconsider whether to propose a rule that obtains information from all CAFO facilities (or a subset of CAFO facilities).

Q: How will the public be able to know about CAFOs located in a specific geographic area without a rule issued under section 308 of the Clean Water Act?

A: All states with authorized NPDES programs have information about CAFOs that have applied for NPDES permits. The EPA notes that many states already provide data on individual CAFOs on their websites, and any information provided on a NPDES permit application, which contains more information than the items proposed to be collected, must be made available to the public.

The EPA also maintains a web-based tool, Enforcement and Compliance History Online (ECHO), which provides public access to compliance and enforcement information for approximately 800,000 EPA-regulated facilities. ECHO contains information about permits, inspections, violations, and penalty information for the last three years. The data in ECHO are updated monthly. The public can search by state using the dashboard query to find information about CAFOs. ECHO is available at: <http://www.epa-echo.gov/echo/index.html>.