

The Administrator signed the attached proposed rule on December 15, 2000, and we (EPA) are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this prepublication version of the rule, it is not the official version of the rule for purposes of public comment. Please refer to the official version in a forthcoming Federal Register publication or on GPO's Web Site. You can access the Federal Register at: http://www.access.gpo.gov/su_docs/aces/aces140.html.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 412

[FRL-]

RIN

National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule

SUMMARY: Today the Environmental Protection Agency proposes to revise and update two regulations that address the impacts of manure, wastewater, and other process waters generated by concentrated animal feeding operations (CAFOs) on water quality. These two regulations are the National Pollutant Discharge Elimination System (NPDES) provisions that define which operations are CAFOs and establish permit requirements, and the Effluent Limitations Guidelines for feedlots (beef, dairy, swine and poultry subcategories), which establish the technology-based effluent discharge standards for CAFOs. EPA is proposing revisions to these regulations to address changes that have occurred in the animal industry sectors over the last 25 years, to clarify and improve implementation of CAFO permit requirements, and to improve the environmental protection achieved under these rules.

Environmental concerns being addressed by this rule include both ecological and human health effects. Manure from stockpiles, lagoons, or excessive land application can reach waterways through runoff, erosion, spills, or via groundwater. These discharges can result in excessive nutrients (nitrogen, phosphorus, and potassium), oxygen-depleting substances, and other pollutants in the water. This pollution can kill fish and shellfish, cause excess algae growth, harm marine mammals, and contaminate drinking water.

Today's action co-proposes two alternatives for how to structure the revised NPDES program for CAFOs; the alternatives offer comparable environmental benefits but differ in their administrative approach. EPA also requests comment on two other alternatives that the Agency is considering and may pursue after evaluating the comments.

EPA is also proposing to revise effluent guidelines applicable to beef, dairy, swine, and poultry operations that are defined as CAFOs, pursuant to the NPDES revisions. The proposed effluent

guidelines include regulations for both new and existing animal feeding operations that meet the definition of a CAFO. Today's effluent guidelines revisions do not alter the requirements for horses, ducks, sheep or lambs.

DATES: Comments must be received or postmarked on or before midnight[**insert date 120 days after date of publication in the Federal Register**]

ADDRESSES: Public comments regarding this proposed rule should be submitted by mail to: Concentrated Animal Feeding Operation Proposed Rule, Office of Water, Engineering and Analysis Division (4303), USEPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Hand deliveries (including overnight mail) should be submitted to the Concentrated Animal Feeding Operation Proposed Rule, USEPA, Waterside Mall, West Tower, Room 611, 401 M Street, SW, Washington, DC 20460. You also may submit comments electronically to CAFOS.comments@epa.gov. Please submit any references cited in your comments. Please submit an original and three copies of your written comments and enclosures. For additional information on how to submit comments, see “**SUPPLEMENTARY INFORMATION, How May I Submit Comments?**”

FOR FURTHER INFORMATION CONTACT: For additional technical information contact Karen Metchis or Jan Goodwin at (202) 564-0766.

SUPPLEMENTARY INFORMATION:

What Entities Are Potentially Regulated by This Action?

This proposed rule would apply to new and existing animal feeding operations that meet the definition of a concentrated animal feeding operation, or which are designated by the permitting authority as such. Concentrated animal feeding operations are defined by the Clean Water Act as point sources for the purposes of the NPDES program. (33 U.S.C. § 1362).

The following table lists the types of entities that are potentially subject to this proposed rule. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria proposed at § 122.23(a)(2) of the rule. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed for technical information in the preceding “**FOR FURTHER INFORMATION CONTACT**” section.

Category	Examples of Regulated Entities	North American Industry Code (NAIC)	Standard Industrial Classification Codes
Federal, State and Local Government			
Industry		See below	See below
	Operators of animal production operations that meet the definition of a concentrated animal feeding operation.		
	Beef cattle feedlots	112112	0211
	Hogs	11221	0213
	Sheep and goats	1241, 11242	0214
	General livestock, except dairy and poultry	11299	0219
	Dairy farms	112111, 11212	0241
	Broilers, fryers, and roaster chickens	11232	0251
	Chicken eggs	11231	0252
	Turkey and turkey eggs	11233	0253
	Poultry hatcheries	11234	0254
	Poultry and eggs, NEC	11239	0259
	Ducks	112390	0259
	Horses and other equines	11292	0272
	Meat packing or poultry processing companies that may be a potential co-permittee because of substantial operational control over a CAFO		
	Animal Slaughtering and Processing	3116	02
	Owners or operators of crop production operations that may receive CAFO manure for use as a fertilizer substitute		
	Crop Production	111	01

How May I Review the Public Record?

The record (including supporting documentation) for this proposed rule is filed under docket number OW-00-27 (proposed rule). The record is available for inspection from 9 a.m. to 4 p.m. on Monday through Friday, excluding legal holidays, at the Water Docket, Room EB 57, USEPA Headquarters, 401 M Street, SW, Washington, DC 20460. For access to docket materials, please call (202) 260-3027 to schedule an appointment during the hours of operation stated above.

How May I Submit Comments?

To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency requests that you cite, where possible, the paragraph(s) or sections in the preamble, rule, or supporting documents to which each comment refers. You should use a separate paragraph for each issue discussed.

If you want EPA to acknowledge receipt of your comments, enclose a self-addressed, stamped envelope. No faxes will be accepted. Comments may also be submitted electronically to CAFOS.comments@epa.gov. Electronic comments must be submitted as an ASCII, WordPerfect 5.1, WP6.1, or WP8 file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number OW-00-27. EPA will accept comments and data on disks in WordPerfect 5.1, 6.1, or 8 format or in ASCII file format. Electronic comments on this notice may be filed on-line at many Federal depository libraries.

Table of Contents

- I. Legal Authority.
- II. Purpose and Summary of the Proposed Regulation.
- III. Background.
 - A. The Clean Water Act.
 - B. History of EPA Actions to Address CAFOs.
 - C. Which Requirements Apply to CAFOs.
 - D. How Do Today's Proposed Revisions Compare to the Unified National AFO Strategy?
- IV. Why is EPA Changing the Effluent Guidelines for Feedlots and the NPDES CAFO Regulations?
 - A. Main Reasons for Revising the Existing Regulations.
 - B. Water Quality Impairment Associated with Manure Discharge and Runoff.
 - C. Recent Changes in the Livestock and Poultry Industry.
 - D. Improve Effectiveness of Regulations.
- V. What Environmental and Human Health Impacts are Potentially Caused by CAFOs?
 - A. Which Pollutants Do CAFOs Have the Potential to Discharge and Why are They of Concern?
 - B. How Do These Pollutants Reach Surface Waters?
 - C. What are the Potential and Observed Impacts?
- VI. What are Key Characteristics of the Livestock and Poultry Industries?
 - A. Introduction and Overview.
 - B. Beef Subcategory.
 - C. Dairy Subcategory.
 - D. Hog Subcategory.
 - E. Poultry Subcategory.