

Proposed CAFO Rule

Public Meeting Notes

Fayetteville, NC
July 24, 2006



CAFO Proposed Rule Stakeholder Meeting Sign-In Sheet
Monday, July 24, 2006
Crown Coliseum – Fayetteville, NC
1:00 – 4:00pm

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Section I

Welcome by Connie Roberts, EPA Region 4 Agricultural Water Quality Coordinator

Ms. Roberts welcomed the participants to the meeting and stressed the importance of public understanding of the CAFO regulations. Ms. Roberts thanked the stakeholders for their interest in the proposed rule and encouraged them to continue to participate in the CAFO regulatory process.

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 14.
- 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 four more public meetings will be forthcoming in Iowa, 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: What does EPA mean by “proposed discharge” for a facility that is designed to maintain a 25-year/24-hour storm event? [North Carolina Farm Bureau Federation]

Q2: How will the economically feasible new technologies affect existing facilities in North Carolina? [Waterkeeper Alliance]

Q3: Does the rule prohibit CAFOs from using other technologies? [Waterkeeper Alliance]

Q4: Can a CAFO land apply in the rain? [Waterkeeper Alliance]

Q5: Are drain pipes under land application fields that move water legal? [Waterkeeper Alliance/Citizen]

Q6: How do these regulations protect North Carolina waters if CAFOs land apply before a rain event? [Waterkeeper Alliance/Citizen]

Q7: North Carolina has a practice where air is discharged above a lagoon and the lagoon is lowered. This is volatilized air and the air is a discharge. What do the regulations say about this? [Waterkeeper Alliance/Citizen]

Q8: There is no change in BCT. What formula did EPA use to determine that industry can’t afford it? [Waterkeeper Alliance/Citizen]

Q9: How can EPA justify the cost formula with companies making so much money and discharging? [Waterkeeper Alliance/Citizen]

Q10: In 1999, EPA was moving toward strict enforcement and North Carolina was about to lose their regulatory authority. After the proposed rule was published in 2001, EPA changed course and the final rule was less stringent. What's EPA's explanation? [Waterkeeper Alliance/Citizen]

Q11: How far should a facility look back when determining if they are proposing to discharge or have prior discharges that weren't corrected? [North Carolina Pork Council]

Q12: Please explain major versus minor and substantial versus non-substantial in the context of NMP changes. [North Carolina Farm Bureau Federation]

Q13: If the regulations are still inadequate, what can we do? [Waterkeeper Alliance]

Q14: These rules look like they protect the wealthy and powerful. [Waterkeeper Alliance]

Q15: What are the benchmarks that EPA used to determine if something is cost reasonable? [Environmental Defense]

Q16: Are pathogens treated differently? [Environmental Defense]

Q17: Explain the second cost test: industry test. [Environmental Defense]

Q18: What is the basis of this ratio? How does the discharge factor in? What percent was used for this industry? [Waterkeeper Alliance]

Q19: EPA needs to model North Carolina. If EPA considered what was going on in North Carolina, EPA may come up with different technologies. These facilities are not in full compliance. EPA should tell Congress that this process of determining costs is wrong.

Q20: Are the permit changes major or minor if the numbers of animals are reduced? [Dairy Industry]

Q21: How can a dry litter farm qualify for the agricultural stormwater exemption? [North Carolina Cooperative Extension]

Q22: What weight does EPA use to determine whether a facility has the duty to apply? [Waterkeeper Alliance]

Q23: How can a facility model for no discharge? [Waterkeeper Alliance]

Q24: Does EPA review the facility's modeling paperwork/documentation?
[Waterkeeper Alliance]

Q25: Does EPA consider whether the 590 technical standards are met? [Waterkeeper Alliance]

Q26: What are technical standards? [Waterkeeper Alliance]

Q27: The North Carolina NMP template already exists. Will EPA make North Carolina change? [North Carolina Farm Bureau Federation]

Q28: What do the comments today mean? [Waterkeeper Alliance]

Q29: Why submit comments to EPA and not our congressman? [Waterkeeper Alliance]

Section VI

Closing Remarks

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