



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 23 1999

OFFICE OF  
WATER

The Honorable Jane Nishida  
Secretary  
Maryland Department of Environment  
2500 Broening Highway  
Baltimore, MD 21224

Dear Jane:

Thank for your inquiry regarding Environmental Protection Agency's (EPA) authority to hold integrators and their contract growers jointly responsible under the Clean Water Act (CWA) for complying with National Pollutant Discharge Elimination System (NPDES) permits.

Under the NPDES program, the discharge of any pollutant (i.e., the addition of a pollutant to the navigable waters from a point source) by any person is prohibited without a permit. (See CWA sections 301(a) and 502, and 40 CFR Part 122.) Where two entities are both responsible for adding pollutants to the waters, EPA has authority to require both to be permitted (e.g., where operational control is shared by more than one entity). In this case, EPA believes that corporate entities that exercise substantial control over operators of concentrated animal feeding operations (CAFOs) should be permitted together with the CAFO because they are both responsible for the addition of pollutants to the waters. This issue was addressed in the final USDA-EPA Unified National Strategy for Animal Feeding Operations, announced by the Vice-President on March 9, 1999.

EPA expects all NPDES authorized States, including Maryland, to use this authority. If you have any questions, please feel free to contact me or have your staff contact Michael B. Cook, Director, Office of Wastewater Management at (202) 260-5850.

Sincerely,

J. Charles Fox  
Assistant Administrator