

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9, 122, 123 and 412

[FRL-7424-7]

RIN 2040-AD19

#### National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs)

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Today's final rule revises and clarifies the Environmental Protection Agency's (EPA) regulatory requirements for concentrated animal feeding operations (CAFOs) under the Clean Water Act. This final rule will ensure that CAFOs take appropriate actions to manage manure effectively in order to protect the nation's water quality.

Despite substantial improvements in the nation's water quality since the inception of the Clean Water Act, nearly 40 percent of the Nation's assessed waters show impairments from a wide range of sources. Improper management of manure from CAFOs is among the many contributors to remaining water quality problems. Improperly managed manure has caused serious acute and chronic water quality problems throughout the United States.

Today's action strengthens the existing regulatory program for CAFOs. The rule revises two sections of the Code of Federal Regulations (CFR), the National Pollutant Discharge Elimination System (NPDES) permitting requirements for CAFOs (Sec. 122) and the Effluent Limitations Guidelines and Standards (ELGs) for CAFOs (Sec. 412).

The rule establishes a mandatory duty for all CAFOs to apply for an NPDES permit and to develop and implement a nutrient management plan. The effluent guidelines being finalized today establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. The required nutrient management plan would identify the site-specific actions to be taken by the CAFO to ensure proper and effective manure and wastewater management, including compliance with the Effluent Limitation Guidelines. Both sections of the rule also contain new regulatory requirements for dry-litter chicken operations.

This improved regulatory program is also designed to support and

complement the array of voluntary and other programs implemented by the United States Department of Agriculture (USDA), EPA and the States that help the vast majority of smaller animal feeding operations not addressed by this rule. This rule is an integral part of an overall federal strategy to support a vibrant agriculture economy while at the same time taking important steps to ensure that all animal feeding operations manage their manure properly and protect water quality.

EPA believes that these regulations will substantially benefit human health and the environment by assuring that an estimated 15,500 CAFOs effectively manage the 300 million tons of manure that they produce annually. The rule also acknowledges the States' flexibility and range of tools to assist small and medium-size AFOs.

**DATES:** These final regulations are effective on April 14, 2003.

**ADDRESSES:** The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC) in the basement of the EPA West Building, Room B-102, at 1301 Constitution Ave., NW., Washington, DC. The administrative record is also available via EPA Dockets (Edocket) at <http://www.epa.gov/edocket> under Edoctet number OW-2002-0025. The rule and key supporting materials are also electronically available on the Internet at <http://www.epa.gov/npdes/caforule>.

#### FOR FURTHER INFORMATION CONTACT:

Gregory Beatty, U.S. EPA, Office of Water, Office of Wastewater Management (4203M), 1200 Pennsylvania Avenue NW., Washington, DC 20460, 202-564-0724, for information pertaining to the NPDES Regulations (Part 122) or Paul Shriner, U.S. EPA, Office of Water, Office of Science and Technology (4303T), 1200 Pennsylvania Avenue NW., Washington, DC 20460, 202-566-1076, for information pertaining to the Effluent Guideline (Part 412).

#### SUPPLEMENTARY INFORMATION:

##### A. General Information

1. What entities are potentially regulated by this final rule?
2. How Can I Get Copies of This Document and Other Related Information?
- B. Under what legal authority is this final rule issued?
- C. How is this preamble organized?
- D. What is the Comment Response Document?
- E. What other information is available to support this final rule?
- I. Background Information
  - A. What is the context for this rule?
  - B. Why is EPA revising the existing effluent guidelines and NPDES regulations for CAFOs?

C. What are the environmental and human health concerns associated with improper management of manure and wastewater at CAFOs?

1. How do the amounts of animal manure compare to human waste?
2. What are "excess manure nutrients" and why are they an indication of environmental concern?
3. What pollutants are present in animal manure and wastewater?
4. How do these pollutants reach surface water?
5. How is water quality impaired by animal manure and wastewater?
6. What ecological and human health impacts have been caused by CAFO manure and wastewater?

D. What are the roles of the key entities involved in the final rule?

1. CAFOs.
2. States.
3. EPA.
4. USDA.
5. Other stakeholders.
6. The public.
- E. What principles have guided EPA's decisions embodied in this rule?
- F. What are the major elements of this final rule? Where do I find the specific requirements?

1. NPDES Regulations for CAFOs.
2. Effluent Limitations Guidelines requirements for CAFOs.

##### II. What Events Have Led to This Rule?

- A. The Clean Water Act
  1. The National Pollutant Discharge Elimination System (NPDES) permit program
  2. Effluent limitations guidelines and standards
  3. Effluent guidelines planning process—Section 304(m) requirements
- B. Existing Clean Water Act requirements applicable to CAFOs
  1. Scope and requirements of the 1976 NPDES regulations for CAFOs
  2. Scope and requirements of the 1974 feedlot effluent guidelines
- C. USDA-EPA Unified National Strategy for Animal Feeding Operations

##### III. How Was This Final Rule Developed?

- A. Small Business Advocacy Review (SBAR) Panel
- B. Proposed Rule
- C. 2001 Notice of Data Availability
- D. 2002 Notice of Data Availability
- E. Public Comments
- F. Public outreach
  1. Pre-proposal activities
  2. Post-proposal activities

##### IV. CAFO Roles and Responsibilities

- A. Who is affected by this rule?
  1. What is an AFO?
  2. What is a CAFO?
  3. What types of animals are covered by today's rule?
4. Is my AFO a CAFO if it discharges only during large storm events?
5. How are land application discharges of manure and process wastewaters at CAFOs covered by this rule?
6. How is EPA applying the Agricultural Storm Water Exemption with respect to Land Application of CAFO Manure and Process Wastewaters?