

Availability. EPA evaluated all the significant comments submitted and prepared a *Comment Response Document* containing the Agency's responses to those comments. The *Comment Response Document* complements and supplements this preamble by providing more detailed explanations of EPA's final actions. The *Comment Response Document* is available at the Water Docket. See Section E below for additional information.

E. What Other Information Is Available to Support This Final Rule?

In addition to this preamble, today's final rule is supported by extensive other information that is part of the administrative record, such as the *Comment Response Document*, and the key supporting documents listed below. These supporting documents and the administrative record are available at the Water Docket and via e-Docket.

- “*Development Document for the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations*” (EPA 821-R-03-001). Hereafter referred to as the *Technical Development Document*, this document presents EPA's technical conclusions concerning the rule. EPA describes, among other things, the data collection activities in support of the rule, the wastewater treatment technology options, wastewater characterization, and the estimated costs to the industry.
- “*Economic Analysis of the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations*” (EPA 821-R-03-002). Hereafter referred to as the *Economic Analysis*, this document presents the methodology employed to assess economic impacts of the final rule and the results of the analysis.
- “*Cost Methodology for the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations*” (EPA 821-R-03-004). Hereafter referred to as the *Cost Support Document*, this document presents the methodology employed to estimate costs that will be borne by CAFOs to comply with the requirements of the final rule.
- “*Environmental and Economic Benefit Analysis of the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated*

Animal Feeding Operations” (EPA 821-R-03-003). Hereafter referred to as the *Benefits Analysis*, this document presents the methodologies and results of analyses used to assess environmental impacts of the final rule.

- “*Environmental Assessment of Proposed Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations*” (EPA 821-R-01-002). Hereafter referred to as the *Environmental Assessment*, this document illustrates the environmental impacts associated with animal agriculture.

- “*Information Collection Request for Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Limitations Guidelines for Concentrated Animal Feeding Operations*” (EPA ICR No. 1989-02). Hereafter referred to as the *ICR*, this document presents estimates of the labor and capital costs associated with the recordkeeping and reporting requirements of the final rule.

I. Background Information

A. What Is the Context for This Rule?

Nationally, there are an estimated 1.3 million farms with livestock. About 238,000 of these farms are considered animal feeding operations (AFOs)—agriculture enterprises where animals are kept and raised in confinement. AFOs annually produce more than 500 million tons of animal manure that, when improperly managed, can pose substantial risks to the environment and public health. EPA and the United States Department of Agriculture (USDA) are committed to a comprehensive national approach to ensure that manure and wastewater from AFOs are properly managed. EPA and USDA are relying on a comprehensive suite of voluntary programs (e.g. technical assistance, training, funding, and outreach) and regulatory programs to ensure that AFOs establish appropriate site-specific comprehensive nutrient management plans (CNMPs) that will protect the environment and public health. Today's rule is a part of this suite of actions. It ensures that the largest of these operations, CAFOs, are required to develop and implement a nutrient management plan as a condition of an NPDES permit. The requirement in this rule to develop and implement a nutrient management plan can generally be fulfilled by developing and implementing a CNMP.

Congress passed the Clean Water Act to “restore and maintain the chemical,

physical, and biological integrity of the nation's waters.” (33 U.S.C. 1251(a)). The Clean Water Act establishes a comprehensive program for protecting our Nation's waters. Among its core provisions, the Act prohibits the discharge of pollutants from a point source to waters of the United States except as authorized by an NPDES permit. The Clean Water Act also requires EPA to establish national technology-based effluent limitations guidelines and standards (ELGs) for different categories of sources. Section 502 of the Clean Water Act specifically defines the term “point source” to include CAFOs. In 1974 and 1976, EPA promulgated regulations that established ELGs for large feedlots (CAFOs) and established permitting regulations for CAFOs. Today's final rule revises the more than 25-year old requirements that apply to CAFOs. This regulatory action, which applies primarily to the largest CAFOs, is an important component of the overall effort to ensure effective management of manure.

Focusing EPA's regulatory program on the largest operations, which present the greatest potential risk to water quality, is consistent with the *Unified National Strategy for Animal Feeding Operations* jointly developed by EPA and USDA (USEPA/USDA, March 1999). The *Strategy* specifies that the vast majority of operations that confine animals are and will continue to be addressed through locally focused voluntary programs. The *Strategy* defines a national objective for all AFOs to develop CNMPs to minimize impacts on water quality and public health from AFOs. The vast majority (estimated to be about 95%) of these CNMPs will be developed under voluntary programs. The requirement in today's rule that the largest of these operations develop and implement a nutrient management plan is consistent with the objective of the *Strategy*.

B. Why Is EPA Revising the Existing Effluent Guidelines and NPDES Regulations for CAFOs?

Despite more than 25 years of regulation of CAFOs, reports of discharge and runoff of manure and manure nutrients from these operations persist. Although these conditions are in part due to inadequate compliance with and enforcement of existing regulations, EPA believes that the regulations themselves also need revision. The final regulations being announced today will reduce discharges that impair water quality by strengthening the permitting requirements and performance standards for CAFOs. These changes are