

must comply with the technology and water quality-based limitations in the permit as defined by the permitting authority. Only CAFOs that have successfully demonstrated no potential to discharge may avoid a permit. Each permitted CAFO must also develop and implement a site-specific nutrient management plan. EPA fully expects that a CNMP that is properly developed and implemented, consistent with USDA guidance, will satisfy the nutrient management requirements of this rule.

2. States

The States, including their environmental, agriculture, and conservation agencies, have the key leadership role in implementing programs to ensure that AFOs take the important steps needed to implement sound management practices that protect water quality. State regulatory agencies will play a central role in implementing today's final rule while supporting the voluntary efforts of other State programs and agencies.

3. EPA

EPA's statutory obligation is to establish national regulations that protect and restore the chemical, physical, and biological integrity of the Nation's waters. EPA has undertaken an extensive outreach process to promote understanding of the science, policy, and economic issues surrounding animal agriculture. The Agency will continue to work effectively with the varied interest groups to ensure effective implementation, compliance assistance, and enforcement of these regulations.

4. USDA

USDA is EPA's partner in working collaboratively to ensure that USDA's voluntary programs and EPA's regulatory programs complement each other to support effective nutrient management by AFOs. EPA and USDA will continue to coordinate the development and implementation of tools to support agriculture, in ways that respect the different roles of the two agencies.

5. Other Stakeholders

A host of other entities, such as research and educational institutions, soil and water conservation districts, watershed groups, and many others, can contribute to the use of sound agricultural practices and protection of water quality. The private sector plays an important role in ensuring that CAFOs have the tools and expertise available to protect water quality while enhancing production and remaining profitable. For example, the private

sector in partnership with educational institutions and other stakeholders can explore innovative technologies for the management and utilization of animal manure and provide the needed expertise to support development of sound, site-specific, and technically based nutrient management plans.

6. The Public

The public has had, and continues to demonstrate, a keen interest in many aspects of animal agriculture. This final rule establishes obligations for CAFOs to protect water quality and affirms the public's role and involvement throughout the regulatory program.

E. What Principles Have Guided EPA's Decisions Embodied in This Rule?

EPA has considered the implementation of the existing regulations which are more than 25 years old, changes in the industry, the extensive comments on the proposed rule and supplemental notices of data availability, and countless studies, reports, and data in developing this final rule. At the same time, EPA has tried to embody some important principles throughout the final rule. The Agency strives to ensure its rules are based on sound science and economics, promote emerging technologies, and protect watersheds. In addition, the following principles have guided this rulemaking:

Simplicity and Clarity

EPA has tried to make this final rule as simple and easy to understand as possible. This rule provides a clear understanding of who is covered and what they are expected to do.

Emphasis on Large CAFOs

This rule focuses on the operations that pose the greatest risk to water quality. These operations are predominantly large CAFOs and some smaller CAFOs that pose a high risk to water quality.

Flexibility for States

This rule establishes a strong and consistent national expectation for CAFOs, yet provides flexibility for States to address site-specific situations.

Sound Nutrient Management Planning

This rule embodies the goal of developing site-specific nutrient management plans to ensure that animal manure is used consistent with proper agriculture practices that protect water quality.

F. What Are the Major Elements of This Final Rule? Where Do I Find the Specific Requirements?

This section provides a very brief summary of the major elements of this final rule and a brief index on where each of the requirements is located in the final regulations. The regulations for the NPDES permit program are in Part 122 of Title 40 of the Code of Federal Regulations. These NPDES regulations include requirements that apply to all point sources, including CAFOs. The national effluent limitations guidelines for CAFOs are in Part 412 of Title 40 of the Code of Federal Regulations. This summary is not a replacement for the actual regulations.

1. NPDES Regulations for CAFOs

Overall, this final rule maintains many of the basic features and the overall structure of the 1976 NPDES regulations with some important exceptions. First, all CAFOs have a mandatory duty to apply for an NPDES permit, which removes the ambiguity of whether a facility needs an NPDES permit, even if it discharges only in the event of a large storm. In the event that a Large CAFO has no potential to discharge, today's rule provides a process for the CAFO to make such a demonstration in lieu of obtaining a permit. The second significant change is that large poultry operations are covered, regardless of the type of waste disposal system used or whether the litter is managed in wet or dry form.

Third, under this final rule, all CAFOs covered by an NPDES permit are required to develop and implement a nutrient management plan. The plan would identify practices necessary to implement the ELG and any other requirements in the permit and would include requirements to land apply manure, litter, and process wastewater consistent with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients.

2. Effluent Limitations Guidelines Requirements for CAFOs

a. Existing sources. The final ELGs published today will continue to apply to only Large CAFOs, historically referred to as operations with 1,000 or more animal units, although the requirements for existing sources and new sources are different for certain animal sectors. In the case of existing sources, the ELGs will continue to prohibit the discharge of manure and other process wastewater pollutants, except for allowing the discharge of process wastewater whenever rainfall