

for the 2002 Notice was from July 23, 2002, through August 22, 2002. Approximately 150 comments were received on the 2002 Notice. Responses to each of these comments are also included in the *Comment Response Document*.

In addition to the public comments received on the proposal and the two Notices, approximately 200 additional comments on the two Notices were received from various stakeholders. Responses to each of these comments are included in the *Comment Response Document*.

F. Public Outreach

In support of both the proposed rule and today's final rule, EPA has conducted extensive outreach activities. These activities are documented in the administrative record for the final rule, which is available for public review under docket number W-00-27. The discussion that follows is focused on key outreach activities that EPA has conducted.

1. Pre-Proposal Activities

During the development of the proposed regulations for CAFOs, EPA met with many members of the stakeholder community through meetings, conferences, and site visits. EPA convened a SBAR Panel to address small entity concerns, provided outreach materials to and met with several national organizations representing State and local governments, and conducted approximately 110 site visits to collect information on waste management practices at livestock and poultry operations. EPA also established a workgroup that included representatives from USDA, seven States, EPA regions, and EPA headquarters. More detailed information on EPA's public outreach efforts was published in section XII of the **Federal Register** notice for the proposed rule (66 FR 3120).

2. Post-Proposal Activities

a. Public meetings and stakeholder outreach. Following publication of the proposed rulemaking, EPA conducted nine public outreach meetings on the proposed CAFO regulations. In addition, EPA continued to meet with representatives of various stakeholder groups, including representatives from various industry trade associations and environmental groups, as well as researchers from select land grant universities and research organizations. The land grant university staff consulted on this rulemaking included researchers at the Food and Agricultural Policy Research Institute (FAPRI) at the

University of Missouri and researchers at The National Center for Manure and Animal Waste Management, composed of researchers from 16 land grant universities supported by USDA-Cooperative State Research, Education and Extension Service (CSREES). EPA has also consulted with State and local governments and several national associations representing State governments. A more detailed account of these efforts is provided in the 2001 Notice (66 FR 58557-58558).

b. USDA-EPA Workgroup meetings. In April 2001 USDA initiated a process to review the proposed revisions to EPA's CAFO rule and identify issues and concerns posed by the rule. USDA identified 15 specific areas of concern and a number of overarching issues. As a follow-up to this process, USDA and EPA's Office of Water initiated monthly meetings on issues of significance for agriculture and the environment, specifically water quality. The goal was to foster greater communication between the two agencies to provide better information to the public and policy makers on areas of mutual concern related to agriculture and water quality, and to facilitate informed decisions on approaches and needs to address the key agriculture and environment issues. In July 2001 EPA and USDA convened a joint workgroup to address the issues identified by the two agencies and begin to develop options for EPA leadership to consider in developing the final rule. The collaboration fostered increased understanding on the part of both agencies with respect to the issues, data, and analyses used to finalize today's CAFO rule.

c. Other outreach activities. As part of the development of this rulemaking, EPA used several additional means to provide outreach to stakeholders. Most notably, EPA has managed a number of Web sites that post information related to these regulations. Supporting documents for the proposed rule were posted to these sites, including the *Technical Development Document*, *Economic Analysis*, *Environmental Assessment*, *Environmental and Economic Benefit Analysis* of the proposed CAFO regulations, and cost methodology reports and guidance related to Permit Nutrient Plans. These are available at <http://www.epa.gov/guide/cafo/>. Other outreach materials are available at <http://www.epa.gov/npdes/caforule> and include brochures describing the proposed CAFO regulations, a compendium of AFO-related State program information, and various materials related to permitting issues to facilitate an understanding of

the NPDES program and development of comments on the proposed rule by the public.

IV. CAFO Roles and Responsibilities

A. Who Is Affected by This Rule?

1. What Is an AFO?

In today's final rule, EPA is retaining the definition of an animal feeding operation (AFO) as it was defined in the 1976 regulation at 40 CFR 122.23(b)(1). An animal feeding operation means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (1) Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (**Note:** EPA is making a typographical correction to the AFO definition. The comma between vegetation and forage growth had been inadvertently dropped from the 1976 final rule in subsequent printings of the **Federal Register**).

What did EPA propose? In the January 12, 2001, proposed rule, the Agency proposed to change the definition of an AFO, intending to eliminate ambiguities about which facilities and operations would be defined as AFOs in certain circumstances where the animals strip the ground of vegetation. The proposal stated that " * * * Animals are not considered to be stabled or confined when they are in areas such as pastures or rangeland that sustain crops or forage growth during the entire time that animals are present * * *."

What were the key comments? While it was EPA's intent to clarify the existing AFO definition, the proposed new regulatory language created substantial confusion. For example, many commenters from the beef cattle industry and others strongly believed that the proposed language would include pastures, rangeland, and unconfined wintering operations as AFOs and, in essence, would bring the entire beef industry under the regulations, none of which was intended. These commenters strongly recommended that the existing regulations should be kept intact to avoid new ambiguity. The view of commenters from the dairy sector and the Sustainable Agriculture Coalition was that the exclusion of pastureland and rangeland from the AFO definition was clear in the proposed rule and they found the proposed language acceptable. Other livestock sectors and environmental groups generally did not comment extensively on this issue.