

individual permit or a general permit. In establishing the topographic map requirement of § 122.21(i)(iv), the Agency is requiring the descriptive information necessary for permitting a CAFO, and not including all of the elements specified in 40 CFR 122.21(f)(7), which generally do not apply to a CAFO's operations.

In the future, EPA plans to allow the electronic submission of all NPDES permit applications such as Forms 1, 2B, and Notices of Intent for general permits (including attachments such as maps and diagrams). EPA has proposed a separate rule dealing with electronic reporting and recordkeeping (66 FR 46161; August 31, 2001) and is currently working to address comments and resolve technical and legal issues. None of the information collection requirements being promulgated in today's rulemaking are intended to limit or conflict with the future use of electronic reporting or recordkeeping.

C. What Are the Requirements and Conditions in an NPDES Permit?

All CAFO NPDES permits must contain a number of requirements and conditions, including effluent limitations, special conditions, standard conditions, and monitoring and reporting requirements. The December 1996 *U.S. EPA NPDES Permit Writers Manual*, 40 CFR 122.41, and 40 CFR 122.42 provide a detailed discussion of all aspects of an NPDES permit. This section focuses primarily on the major elements of a CAFO NPDES permit that are affected by today's rule. Specifically, this section describes the effluent limitations, special conditions applicable to CAFOs, standard conditions included in all NPDES permits, and monitoring and reporting requirements.

1. What Are the Different Types of Effluent Limitations That May Be in a CAFO Permit?

When developing effluent limitations for a CAFO NPDES permit, the permitting authority must consider limits based on applicable technology-based requirements or any more stringent requirements necessary to protect water quality. A water quality-based effluent limitation is designed to protect the quality of the receiving water by ensuring State or Tribal water quality standards are met. In cases where a technology-based permit limit is not sufficiently stringent to meet water quality standards, the permit must include appropriate water quality-based standards. For example, a technology-based standard for a CAFO might allow overflows from storage lagoons under

certain circumstances. In some cases, the overflows might have to be restricted or further controlled to ensure that water quality standards are met. EPA does not expect that water quality-based effluent limitations will be established for CAFO discharges resulting from the land application of manure, litter, or process wastewater. As explained in Section IV.A.6 above, if a CAFO complies with the technical standards for nutrient management established by the Director, any remaining discharges of manure or process wastewater from the land application area are considered agricultural storm water. However, EPA encourages States to address water quality protection issues in their technical standards for determining appropriate land application practices. Today's rule does not change any aspects of water quality-based effluent limitations in the NPDES regulations.

There are two general approaches to developing technology-based limitations: (1) Using national effluent limitations guidelines (ELGs) and (2) using BPJ on a case-by-case basis (in the absence of ELGs). Today's rule revises the ELGs for Large CAFOs. Small and Medium CAFOs are not subject to the ELGs; therefore, the permitting authority will rely on BPJ to establish technology requirements for Small and Medium CAFOs. Revisions to the ELGs are discussed in detail below.

2. Effluent Limitations Guidelines for Large CAFOs

The effluent limitations section in NPDES permits is the primary mechanism for controlling discharges of pollutants to waters of the U.S. This section of the permit describes the specific limitations, in either a narrative or numeric form, that apply to the permittee. The permit contains either technology-based effluent limits (those based on a determination of the degree of pollutant reduction that can be achieved by applying pollution control technologies or practices) or water quality-based effluent limits (those based on the condition of the receiving water body) or both, and it may contain additional BMPs, as needed. This section discusses the ELGs established for Large CAFOs.

Today's final rule establishes new ELGs for Part 412, Subpart C, which applies to beef cattle, dairy cattle, and heifers; and Part 412, Subpart D, which applies to veal calves, swine, and poultry (chickens and turkeys). Today's rule also revises the applicability of Part 412, Subpart A to cover only horses and sheep.

Requirements for Large CAFOs are being established under the authority of Best Practicable Control Technology Currently Available (BPT), Best Available Technology Economically Achievable (BAT), Best Conventional Pollutant Control Technology (BCT), and NSPS, consistent with the factors for consideration under the Clean Water Act, as discussed in Sections II.A.2 and IV.C.2.f of this preamble.

a. *To which CAFOs do the effluent guidelines apply?* In today's final rule, EPA is revising the 1974 ELGs for beef cattle, dairy cattle, veal calves, swine, and poultry. Consistent with the 1974 ELG regulation, EPA is continuing to apply technology-based ELGs only to those operations which are defined as Large CAFOs at 40 CFR 122.23. In the case of Medium or Small CAFOs, or CAFOs not otherwise subject to Part 412, effluent limitations will be established on a case-by-case basis by the permitting authority using BPJ.

This final rule removes language referring to the type of manure handling or watering system employed at laying hen and broiler operations; as a result, it expands the scope of the rule to also address chicken operations with dry litter management systems. The term "dry" does not mean that no wastewaters are associated with these types of operations. For example, poultry waste includes manure, poultry mortalities, litter, spilled water, waste feed, water associated with cleaning houses, runoff from litter stockpiles, and runoff from land where manure has been applied. Today's rule adds explicit references to veal operations and includes requirements for Large veal CAFOs under Part 412, Subpart D. (Veal calves were included in the 1974 ELGs as part of "slaughters steers and heifers.") Today's rule further expands the applicability of the effluent guidelines to cover Large heifer CAFOs and operations that confine immature swine (*i.e.*, swine weighing less than 55 pounds).

What did EPA propose? In the proposed rule, EPA applied the technology-based ELGs to all Large CAFOs (the 1974 ELGs apply to only Large CAFOs) and proposed to expand the scope of the rule to apply to Medium CAFOs as well. Small CAFOs were excluded from the applicability of the ELGs in the proposed rule, and the limits included in their permits were to be based on BPJ. EPA also proposed to expand the scope of the rule to include heifer operations, immature swine operations (*e.g.*, swine nurseries), and chicken operations with dry litter management systems.