

appropriate agricultural utilization of nutrients.

Today's rule makes no changes to the existing regulations concerning how CAFOs may make Confidential Business Information (CBI) claims with respect to information they must submit to the permitting authority and how those claims will be evaluated. Under the existing regulations at 40 CFR Part 2, Subpart B, a facility may make a claim of confidentiality for information it must submit and EPA must evaluate this claim if it receives a request for the information from the public. Among the factors that EPA considers in evaluating such a claim are:

- Must the information be legally provided to the public under the Clean Water Act, its implementing regulations, or other authorities? If so, a claim of confidentiality will be denied.
- Has the facility adequately shown that the information satisfies the requirements for treatment as CBI? If yes, the claim of confidentiality will be upheld.

Claims of confidentiality with respect to information submitted to the State will be processed and evaluated under State regulations.

What was proposed? In the proposal, EPA discussed submission of the PNP to the permitting authority and its availability to the public. The proposed regulations would have required the cover sheet and executive summary of each CAFO's PNP to be made publicly available. EPA proposed that the information contained in these items could not be claimed as CBI. The proposed regulations indicated that anything else in the PNP could be claimed as confidential by the CAFO, and any such claim would be subject to EPA's normal CBI procedures in 40 CFR Part 2. See § 122.23(l) of the proposal.

Key comments. Industry commenters claimed that the PNP would contain proprietary information. They stated that EPA should protect these plans as CBI where requested by the CAFO. They claimed that making the PNP publicly available would discourage innovation in developing waste management technologies and could make CAFOs vulnerable to unwarranted lawsuits. Environmental groups stated that the PNP must be publicly available, or

citizens would have no way of ensuring that CAFOs are adequately developing and implementing the PNPs. They also expressed concerns about the burden of traveling to the permitting authority's offices to gain access to the plans. They stated that the plans should be made more accessible to them by the permitting authority, either by mail or by posting on the internet.

Rationale. The final CAFO regulations require that various types of information on the operation and waste management practices of the facility be made available to the permitting authority, either routinely or upon request. The permitting authority has discretion, subject to applicable regulations, to determine how much of this information to make available to the public and in what manner. The Annual Report that all CAFOs must submit is designed to provide the permitting authority with summary information about the implementation of the nutrient management plan. EPA believes that the information the public is most interested in seeing is contained in the Annual Reports.

With respect to the contents of the nutrient management plan, specifically, today's rule requires that the nutrient management plan be maintained on-site at the CAFO and submitted only at the request of the permitting authority. Upon submission of the nutrient management plan to the permitting authority, the CAFO operator can assert a confidential business information claim over the plan, in accordance with applicable regulations. If the permitting authority receives a request for the information, it will determine the validity of the claim and provide the requester with information in accordance with the findings of the determination and applicable regulations.

As noted, today's rule makes no changes to the existing regulations concerning how facilities may make CBI claims with respect to information they must submit to the permitting authority and how those claims will be evaluated. Any changes to how the Agency handles the issue of confidential business information are beyond the scope of today's rule and would have broad implications across a number of EPA

programs. Instead EPA will evaluate future CBI claims based on the applicable laws and regulations (see, e.g., CWA Section 402(j), 40 CFR Part 2, Subpart B, and 40 CFR 122.7).

VII. Environmental Benefits of the Final Rule

A. Summary of the Environmental Benefits

This section presents EPA's estimates of the environmental and human health benefits, including pollutant reductions, that will occur from this rule. Table 7.1 shows the annualized benefits EPA projects will result from the revised ELG requirements for Large CAFOs. (Monetized values for benefits associated with the revised NPDES requirements for Small and Medium CAFOs are not included in the table.) The total monetized benefits associated with the ELG requirements for Large CAFOs range from \$204 to \$355 million annually. The values presented in the range represent those benefits for which EPA is able to quantify and determine an economic value. These benefit value estimates reflect only those pollutant reductions and water quality improvements attributable to Large CAFOs. EPA also developed estimates of the pollutant reductions that will occur due to the revised requirements for Small and Medium CAFOs, but analysis of the monetized value of the associated water quality improvements was not completed in time for benefits estimates to be presented here. As discussed later in this section, EPA has also identified additional environmental benefits that will result from this rule but is unable to attribute a specific economic value to these additional nonmonetized or nonquantified benefits.

Detailed information on the estimated pollutant reductions is provided in the *Technical Development Document*, which is in the docket for today's rule. EPA's detailed assessment of the environmental benefits that will be gained by this rule, as well as the benefits estimates for other regulatory options considered during this rulemaking, is presented in the *Benefits Analysis*, which is also available in the rulemaking docket.

TABLE 7.1.—ANNUALIZED BENEFITS OF ELG REQUIREMENTS FOR LARGE CAFOS
[Millions of 2001\$]

Types of benefits	Total for all CAFOS
Recreational and non-use benefits from improved water quality in freshwater rivers, streams, and lakes.	\$166.2 to \$298.6.
Reduced fish kills	\$0.1.
Improved shellfish harvests	\$0.3 to \$3.4.